INTERNET FORM NLRB-501

## UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD RECEIVED CHARGE AGAINST EMPLOYER RB, REGION

	DO NOT WRITE IN THIS SPACE			
se		Date Filed		
20	-CA-159259	9/0±/2015		

INSTRUCTIONS:

ile an original with NLRB Regional Director for the region in whic	h the allows Aland procise Scourred or is occu	rring.	
		b. Tel. No. (916) 351-9151	
Vibra Hospital of Sacramento	SAN FRANCISCO, GA	(010) 001 0101	
		c. Cell No.	
		f. Fax No.	
d. Address (Street, city, state, and ZIP code)	e. Employer Representative		
330 Montrose Dr, Folsom, CA 95630	Chase Caldwell	g. e-Mail	
330 Montrose Dr. Folsoni, CA 93030	Criase Caldwell		
		h. Number of workers employed	
: To a f C A blish and f	1 Identificación de la constitución de la constituc		
i. Type of Establishment (factory, mine, wholesaler, etc.) Acute Care Hospital	j. Identify principal product or service Health Care		
k. The above-named employer has engaged in and is engage	ing in unfair labor practices within the meaning of s	ection 8(a), subsections (1) and (list	
subsections)	· ·	abor Relations Act, and these unfair labor	
practices are practices affecting commerce within the mea		,	
within the meaning of the Act and the Postal Reorganization			
2. Basis of the Charge (set forth a clear and concise stateme	ent of the facts constituting the alleged unfair labor	practices)	
Within the lest six menths immediately preceding	the filing of this charge, the employee h	w and through its agents, violated	
Within the last six months immediately preceding Section 8(a)(1) when (b) (6), (b) (7)(C) verbally attack	- · · · · · · · · · · · · · · · · · · ·		
Section 6(a)(1) when to to. 67.7.7.57 verbally attack	ked a worker engaged in protected, conc	erted Official activity.	
In addition, the employer, by and through its age	ents, violated Section 8(a)(1) when (b) (6), (	(7)(C) engaged in surveillance, or	
created the impression of surveillance, of a work			
,	, , ,	•	
3. Full name of party filing charge (if labor organization, give	full name, including local name and number)		
Service Employees International Union, United H	lealthcare Workers-West		
4a. Address (Street and number, city, state, and ZIP code)		<sup>4b. Tel. No.</sup> (510) 251-1250	
		4c. Cell No.	
560 Thomas L. Berkley Way		40. Och 140.	
Oakland, CA 94612		<sup>4d. Fax No.</sup> (510) 763-2680	
		4e. e-Mail	
5. Full name of national or international labor organization o	f which it is an affiliate or constituent unit (to be fille	ed in when charge is filed by a labor	
organization) Service Employees International Uni	on,		
		Tol Me	
DECLARATI I declare that I have read the above charge and that the statement		Tel. No. (510) 337-1001	
1 4	and the transfer of my microscopy and believe		
By X	ochitl A. Lopez	Office, if any, Cell No.	
(signature of representative or person making charge) (Print/type name and title or office if any)		Fax No. (540) 227 4022	
v ·		Fax No. (510) 337-1023	
	9/1/15	e-Mail	
Address 1001 Marina Village Parkway, Suite 200, Ala		xlopez@unioncounsel.net	
	(42.6)		

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Inquiry ID 1-1455934091

1/828174



## UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD



REGION 20 901 Market Street, Suite 400 San Francisco, CA 94103-1738 Agency Website: www.nlrb.gov Telephone: (415)356-5130 Fax: (415)356-5156 Download NLRB Mobile App

September 2, 2015

Chase Caldwell, Employer Representative Vibra Hospital of Sacramento 330 Montrose Dr Folsom, CA 95630-2720

Re: Vibra Hospital of Sacramento

Case 20-CA-159259

Dear Mr. Caldwell:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge is being investigated by Field Examiner SAMUEL J. HOFFMANN whose telephone number is (415)356-5167. If this Board agent is not available, you may contact Supervisor OLIVIA VARGAS whose telephone number is (415)356-5180.

<u>Right to Representation</u>: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

<u>Presentation of Your Evidence</u>: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

<u>Procedures:</u> We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, <u>www.nlrb.gov</u>. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a> or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

JOSEPH F. FRANKL Regional Director

Hoanles

Did Enclosures:

- 1. Copy of Charge
- 2. Commerce Questionnaire

Revised 3/21/2011 NATIONAL LABOR RELATIONS BOARD							
QUESTIONNAIRE ON COMMERCE INFORMATION							
Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.							
CASE NAME CASE NUMBER							
Vibra Hospital of Sacramento  1. EXACT LEGAL TITLE OF ENTITY (	A - El - I - mith Ct-t m I/- m - t- t- I in I - m	1		20-CA-1	139239		_
I. EXACT LEGAL TITLE OF ENTITY (	As med with State and/or stated in lega	ii docum	ents forming entity)				
2. TYPE OF ENTITY		E PR 01	numan sum amumn	(a :a )			
[ ] CORPORATION [ ] LLC [ ] L  3. IF A CORPORATION or LLC	LP [] PARTNERSHIP [] SOI	E PROP	RIETORSHIP [ ] OTHER	(Specify)			
A. STATE OF INCORPORATION	B. NAME, ADDRESS, AND RELATION	ONSHIP	(e.g. parent, subsidiary) OF ALI	RELATED	ENTITIE	S	
OR FORMATION							
4. IF AN LLC OR ANY TYPE OF PART	NERSHIP, FULL NAME AND ADDR	ESS OF	ALL MEMBERS OR PARTN	ERS			
5. IF A SOLE PROPRIETORSHIP, FUL	L NAME AND ADDRESS OF PROPE	IETOR					
,,,							
6. BRIEFLY DESCRIBE THE NATURE	OF YOUR OPERATIONS (Products )	andled o	er manufactured, or nature of ser	vices perform	ned).		
7. A. PRINCIPAL LOCATION:	B. BRANCH LO	CATIO	NS:				
	2. 2.112.(0.12.2)		- 101				
8. NUMBER OF PEOPLE PRESENTLY	FMPI OVED						
A. Total:	B. At the address involved in this	matter:					
9. DURING THE MOST RECENT (Chec			12 MONTHS or [ ] FISCAL	YR (FY da	ites		)
						YES	NO
A. Did you <b>provide services</b> valued in (	excess of \$50,000 directly to custome	ers outsi	de your State? If no, indicate	e actual vali	ue.		
B. If you answered no to 9A, did you p	rovide services valued in excess of S	50,000	to customers in your State wh	no purchase	d goods	_	
valued in excess of \$50,000 from dir							
\$		2.4					
<ul> <li>If you answered no to 9A and 9B, did newspapers, health care institutions,</li> </ul>							
less than \$50,000, indicate amount.		manigs	concational institutions, of f	ctair concer			
D. Did you sell goods valued in excess	of \$50,000 directly to customers loca	ated out	side your State? If less than \$	50,000, ind	icate		
amount. \$  E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who							
purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.							
\$							
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$							
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points							
outside your State? If less than \$50,000, indicate amount. \$							
H. Gross Revenues from all sales or performance of services (Check the largest amount)  [ ] \$100,000 [ ] \$250,000 [ ] \$500,000 [ ] \$1,000,000 or more If less than \$100,000, indicate amount.							
I. Did you begin operations within t			100,000, marcate amount.				
10 ARE YOU A MEMBER OF AN ASSO			THAT ENGAGES IN COLLE	CTIVE BA	RGAININ	NG?	
[] YES [] NO (If yes, name and a		OROUI	THAT ENGAGES IN COLLE	CIIVE DA	KOMINI.	10.	
11. REPRESENTATIVE BEST QUALIFI		TION A	BOUT YOUR OPERATIONS				
NAME							
12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE							
NAME AND TITLE (Type or Print)	SIGNATURE		E-MAIL ADDRESS			DATE	

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

VIBRA HOSPITAL OF SACRAMENTO  Charged Party	
and SEIU UNITED HEALTHCARE WORKERS	Case 20-CA-159259
WEST	
Charging Party	
AFFIDAVIT OF SERVICE OF CHARGE AGAIN	ST EMPLOYER
I, the undersigned employee of the National Labor Rel September 2, 2015, I served the above-entitled docume following persons, addressed to them at the following	ent(s) by post-paid regular mail upon the
Chase Caldwell, Employer Representative	
Vibra Hospital of Sacramento 330 Montrose Dr	
Folsom, CA 95630-2720	
September 2, 2015	Dorothy DeMar, Designated Agent of NLRB
Date	Name

/s/ Dorothy DeMar

Signature



### UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD



Agency Website: www.nlrb.gov Telephone: (415)356-5130 Fax: (415)356-5156 Download NLRB Mobile App

September 2, 2015

Luisa Padilla SEIU - UHW West 560 Thomas L. Berkley Way Oakland, CA 94612-1602

REGION 20

901 Market Street, Suite 400

San Francisco, CA 94103-1738

Re: Vibra Hospital of Sacramento Case 20-CA-159259

Dear Ms. Padilla:

The charge that you filed in this case on September 01, 2015 has been docketed as case number 20-CA-159259. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge is being investigated by Field Examiner SAMUEL J. HOFFMANN whose telephone number is (415)356-5167. If this Board agent is not available, you may contact Supervisor OLIVIA VARGAS whose telephone number is (415)356-5180.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701*, *Notice of Appearance*. This form is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a>, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

<u>Presentation of Your Evidence</u>: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

<u>Procedures:</u> We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website www.nlrb.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlrb.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

JOSEPH F. FRANKL Regional Director

djd

cc: XOCHITL A. LOPEZ, ATTORNEY AT LAW
WEINBERG, ROGER & ROSENFELD
1001 MARINA VILLAGE PARKWAY,
SUITE 200
ALAMEDA, CA 94501

Copy of charge only sent to:

Bruce A. Harland, ESQ. Weinberg Roger & Rosenfeld 1001 Marina Village Pkwy Suite 200 Alameda, CA 94501-6430



### UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD

REGION 20 901 Market Street, Suite 400 San Francisco, CA 94103-1738 Agency Website: www.nlrb.gov Telephone: (415)356-5130 Fax: (415)356-5156

Agent's Direct Dial: (415)356-5167

September 29, 2015

Bruce D. Bagley, ESQ. McNees, Wallace & Nurick LLC P.O. Box 1166 100 Pine Street Harrisburg, PA 17108

Re: Vibra Hospital of Sacramento

Case 20-CA-159259

### Dear Mr. Bagley:

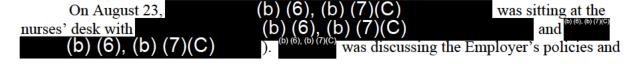
I am writing this letter to advise you that it is now necessary for me to take evidence from your client regarding the allegations raised in the investigation of the above-captioned matter. As explained below, I am requesting to take affidavits on or before October 6, 2015 with regard to certain allegations in this case.

### Allegations:

- The Employer unlawfully harassed and intimidated employee (b) (6), (b) (7)(C) because engaged in protected, concerted activity.
- The Employer unlawfully put under surveillance or created the impression of surveillance because engaged in protected, concerted activity.
- The Employer unlawfully disciplined work schedule because engaged in protected, concerted activity.

### Alleged unlawful conduct:

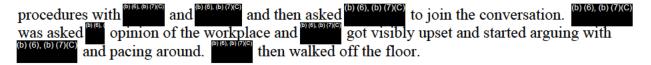
According to the Charging Party and its witnesses, the Union began organizing the employees at the Employer's Folsom, California facility sometime in July 2015<sup>1</sup>. On or about August 7, the Employer sent a letter to employees regarding the Union visiting their homes.



<sup>&</sup>lt;sup>1</sup> All subsequent dates refer to the year 2015, unless noted otherwise.

<sup>&</sup>lt;sup>2</sup> The Charging Party asserts that was a known Union supporter, vocal about support and identified by pro-Union attire.

Employer.



- Please provide a detailed account of the Employer's version of the above-mentioned events, including who was present, what was said, and any other relevant information.
- Please provide a copy of the letter sent to employees on August 7, along with any other relevant information.

break,

stated

On August 30, after (b) (6), (b) (7)(C) had returned from (b) (6)

stated that (b) (6), (c) (7)(c) needed to only take a 30 minute office. In the office, then presented (b) (6), (b) (7)(C) with an in-service about taking lunch<sup>3</sup>. break when takes and (b)(6), (b)(7)(C) then got into an argument and (b)(6), (b)(7)(C) only 30 minutes for lunch. is not comfortable talking to one-on-one. proceeded to come out to the nurses' returned to the nurses' station and station, pace around next to (b) (6), (b) (7)(c) and stare at asked on several continued to pace around (b) (6), (b) (7)(c) and antagonize occasions to please leave alone. had to relay a message to a co-worker. At the end of shift, proceeded through the hallways and into the break room. Again (b) (6), (b) (7)(c) to follow asked to leave alone. There were two other employees in the break room and one of them brought . As the employees were writing a to an office to write a statement about and (b) (6), (b) (7)(c) came to the office and told (b) (6), (b) (7)(c) to come with them. statement. asked to be left alone. The employees finished the statement and submitted it to the

- Please provide a detailed account of the Employer's version of the above-mentioned events, including who was present, what was said, and any other relevant information.
- Please provide a copy of the Employer's employee handbook or policy regarding breaks.
   How is the policy communicated to employees? Is it commonplace for employees to combine their breaks? Have other employees been given in-services for combining their breaks? If so, please provide documentary evidence.
- Please provide a copy of the statement [b) (6), (b) (7)(c) and the other employee submitted to the Employer. What is the Employer's policy or practice for handling complaints once they are filed? Did the Employer conduct an investigation? Is there a written policy for submitting complaints? If so, please provide. Was there any counseling or disciplinary action taken against Please provide copies of any/all witness statements, investigatory notes, internal communication among management regarding the reported incident, disciplinary notices or counseling, and any other relevant information.

<sup>3</sup> The Charging Party and its witnesses state that it is commonplace for employees to combine their lunch break with their 10 minute break that they are unable to take later.

On (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) met with (b) (6), (b) (7)(C) would also be joining them.

The disciplinary notice stated that it was for tardiness, call-ins, and disrespectful behavior.

- Please provide a detailed account of the Employer's version of the above-mentioned events, including who was present, what was said, and any other relevant information.
- Please provide a copy of the Employer's employee handbook or policies regarding tardiness, call-ins, and disrespectful behavior. How are these policies communicated to employees? Have other employees been given disciplinary notices for tardiness, call-ins, and disrespectful behavior? If so, please provide documentary evidence for similarly situated employees that received discipline.
- Please provide a copy of (b) (6), (b) (7)(C) disciplinary notice, along with any other discipline received prior to (b) (6), (b) (7)(C) What is the Employer's policy or practice for issuing discipline? Did the Employer conduct an investigation? Is there a written policy for allocating discipline or a progressive disciplinary policy? If so, please provide. Please provide copies of any/all witness statements, investigatory notes, internal communication among management regarding the decision to discipline (b) (6), (b) (7)(C) and any other relevant information or documentation.

- Please provide a detailed account of the Employer's version of the above-mentioned events, including who was present, what was said, and any other relevant information.
- Please explain why was removed from the work schedule and provide copies of all internal communication among management regarding the decision to remove from the schedule.
- Please provide copies of the employees' work schedules from July to through October.

<sup>&</sup>lt;sup>4</sup> There were per diem employees scheduled to work instead of (b) (6), (b) (7)(c)

Board Affidavits: I am requesting to take affidavits from (b) (6), (b) (7)(C) and any

other individuals you believe have information relevant to the investigation of the above-captioned matter. Please be advised that the failure to present representatives who would appear to have information relevant to the investigation of this matter, for the purposes of my taking sworn statements from them, constitutes less than complete cooperation in the investigation of the charge. Please contact me by October 1, 2015 to schedule these affidavits.

Date for Submitting Evidence: To resolve this matter as expeditiously as possible, you must provide your evidence and position in this matter by October 13, 2015. If you are willing to allow me to take affidavits, please contact me by October 1, 2015 to schedule a time to take affidavits. Electronic filing of position statements and documentary evidence through the Agency website is preferred but not required. To file electronically, go to www.nlrb.gov, select E-File Documents, enter the NLRB case number, and follow the detailed instructions. If I have not received all your evidence by the due date or spoken with you and agreed to another date, it will be necessary for me to make my recommendations based upon the information available to me at that time.

Please contact me at your earliest convenience by telephone, (415)356-5167, or e-mail, samuel.hoffmann@nlrb.gov, so that we can discuss how you would like to provide evidence and I can answer any questions you have with regard to the issues in this matter.

Very truly yours,

/s/ Sam Hoffmann

SAMUEL J. HOFFMANN Field Examiner 
 From:
 Bagley, Bruce

 To:
 Hoffmann, Samuel J.

 Cc:
 Vargas, Olivia

 Subject:
 RE: Vibra- [C-Case]

**Date:** Wednesday, October 14, 2015 11:13:12 AM

Attachments: <u>image001.gif</u>

Ltr. to NLRB-Hoffman (A4738066).pdf

Enclosures to Ltr. to NLRB-Hoffman (A4736259).pdf

Sam, attached please find our Position Statement and Enclosures in response to this 8[a][1] Charge.

Thanks, Bruce

### **Bruce D. Bagley**

McNees Wallace & Nurick LLC 100 Pine Street, P. O. Box 1166 Harrisburg, PA 17108-1166 Direct Telephone: 717.237.5338

FAX: 717.260.1661 <a href="mailto:bbagley@mwn.com">bbagley@mwn.com</a>

NOTICE: The foregoing message may be protected by the attorney-client privilege. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

From: Hoffmann, Samuel J. [mailto:Samuel.Hoffmann@nlrb.gov]

Sent: Tuesday, September 29, 2015 5:27 PM

**To:** Bagley, Bruce

Subject: RE: Vibra- [C-Case]

Bruce.

Attached is the request for evidence. Let me know if you have any questions or concerns. Thanks.

-Sam

From: Bagley, Bruce [mailto:BBagley@mwn.com]
Sent: Monday, September 28, 2015 11:18 AM

**To:** Hoffmann, Samuel J. **Subject:** RE: Vibra- [C-Case]

Sam- thanks for the info re the Charge. It would still be helpful if you send me your typical "request for evidence" letter so that I can then share that with my client.

Thanks, Bruce

#### Bruce D. Bagley

McNees Wallace & Nurick LLC 100 Pine Street, P. O. Box 1166 Harrisburg, PA 17108-1166 Direct Telephone: 717.237.5338

FAX: 717.260.1661 bbagley@mwn.com

NOTICE: The foregoing message may be protected by the attorney-client privilege. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

From: Bagley, Bruce

Sent: Monday, September 28, 2015 10:20 AM

**To:** 'Hoffmann, Samuel J.' **Subject:** Vibra- [C-Case] **Importance:** High

Sam, please give me a call on Monday morning about the C-case. I am trying to plan my trip to Sacramento for next week [for the election] and could schedule a time to meet with you and Vibra's witnesses to respond to the Charge, if a response is necessary. I'll need to know the Union's allegations and whether you believe they have presented sufficient evidence of a violation so as to warrant a response from vibra.

Thanks, Bruce

### Bruce D. Bagley

McNees Wallace & Nurick LLC 100 Pine Street, P. O. Box 1166 Harrisburg, PA 17108-1166 Direct Telephone: 717.237.5338

FAX: 717.260.1661 <a href="mailto:bbagley@mwn.com">bbagley@mwn.com</a>

McNees Email Signature Logo (A1814295)



NOTICE: The foregoing message may be protected by the attorney-client privilege. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166 Tel: 717.232.8000 • Fax: 717.237.5300

Bruce D. Bagley Direct Dial: 717.237.5338 Direct Fax: 717.260.1661 bbagley@mwn.com

October 14, 2015

### VIA E-MAIL

Samuel J. Hoffmann, Field Examiner National Labor Relations Board Region 20 901 Market Street, Suite 400 San Francisco, CA 94103-1738

RE: Vibra Hospital of Sacramento

Case 20-CA-159259 Our File No. 23901-0022

Dear Mr. Hoffmann:

This is in response to your letter of September 29, 2015, detailing the Union's allegations and requesting Vibra Hospital of Sacramento's position regarding the above-captioned Unfair Labor Practice Charge.

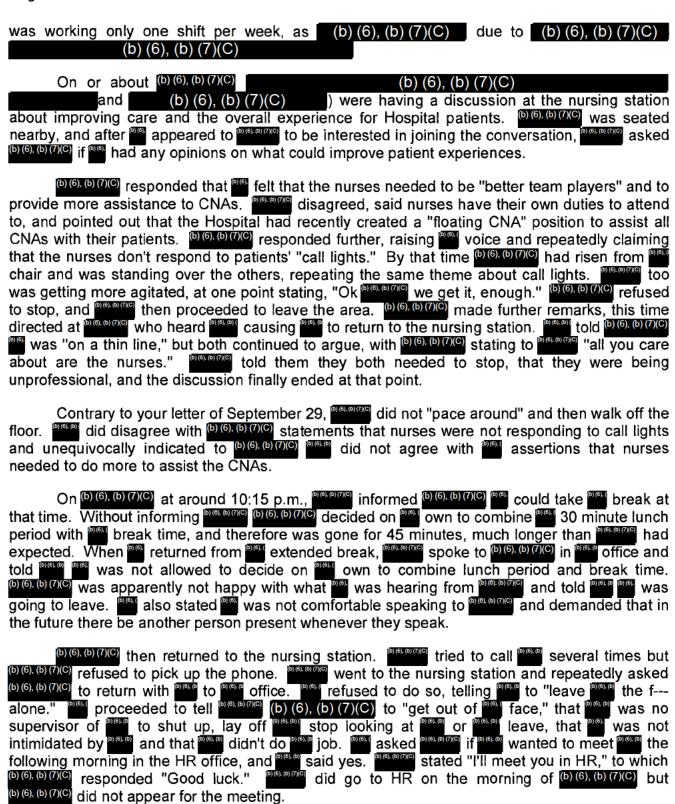
In its Charge, the Union alleges that Vibra has violated Section 8(a)(1) of the Act by (1) "verbally attacking" an employee engaged in protected activity, and (2) engaging in surveillance or creating the impression of surveillance regarding that same employee.

In your letter of September 29, you have provided amplification of the Charge, restating the allegations as (1) harassing and intimidating employee (b) (6), (b) (7)(C) because engaged in protected concerted activity; (2) putting (b) (6), (b) (7)(C) under surveillance or creating the impression of surveillance because engaged in protected concerted activity; and (3) unlawfully disciplining (b) (6), (b) (7)(C) and taking off of regular work schedule because engaged in protected concerted activity.

For the reasons detailed below, Vibra denies that it has in any way mistreated and denies that it has in any way violated the Act.

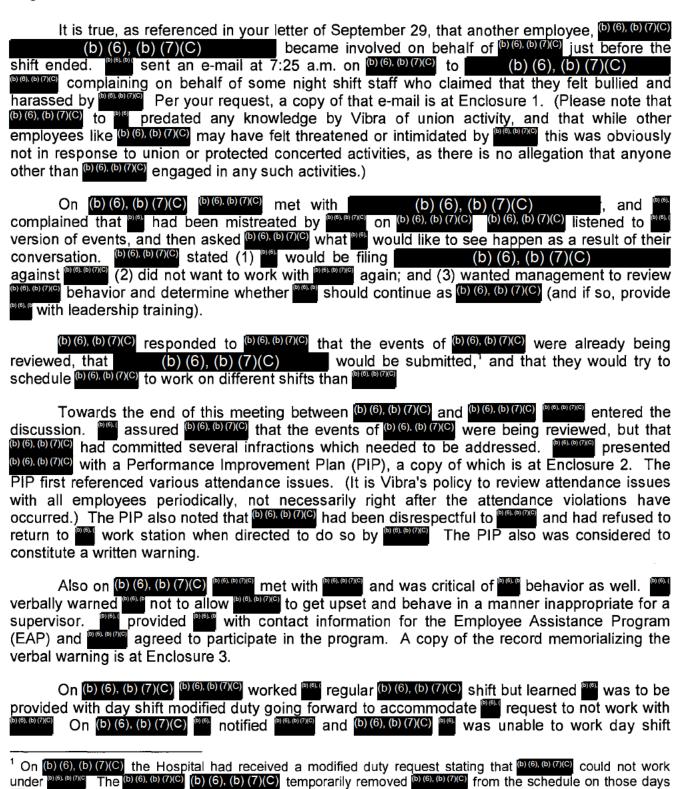
### I. Facts Regarding (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) is classified as a (b) (6), (b) (7)(C) is classified as a (b) (6), (b) (7)(C) is classified as a (c) (6), (b) (7)(C) event you describe in your letter of September 29, (b) (6), (c) (7)(C)



Samuel J. Hoffmann, Field Examiner October 14, 2015 Page 3

was scheduled to work under (10)(6)(6)(7)(6)



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apparently because attends school during the day. responded the same day, stating was unaware had been taken off schedule and would follow up.

On (b) (6), (b) (7)(C) provided (b) (6), (b) (7)(C) with two options — could work full-time modified work day shift, or could continue to work as a (b) (6), (b) (7)(C) on night shift whenever such work was available. A copy of the relevant e-mail dialogue between (b) (6), (b) (7)(C) and (c) is at Enclosure 4.

On (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) complained about (b) (6), (b) (7)(C) responded again that (b) (6), (b) (7)(C) previously offered to a per diem (b) (6), (b) (7)(C) previously offere

### II. Vibra Did Not Commit Any Unfair Labor Practices

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Accordingly, it is the Employer's position that the disciplinary action issued to (b) (6), (b) (7)(C) on (b) (6), (b) (7)(C) was appropriate and lawful, and that (did not engage in surveillance or creating the impression of surveillance. Therefore the Charge in this matter lacks merit, and on behalf of the Employer, we request that the Charge be dismissed.

Thank you for your attention to the above.

Sincerely,

McNEES WALLACE & NURICK LLC

Bruce D. Bagley

BDB<sup>® (6, (6) (7)</sup>
Enclosures

## **ENCLOSURE 1**





From: (b) (6), (b) (7)(C)

Sent: Monday, August 31, 2015 7:25 AM

To: (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

**Subject:** Employee Harassment

Good Morning (b) (6), (b) (7)(C)

This email is long overdue. But as of last night a group of us, have had enough. A majority of the nightshift staff, who work with (b) (6), (b) (7)(C) feel harassed, bullied, intimidated and threatened. Although I use the word feel these are the facts and what has been witnessed by the nightshift. An incident report was filed last night to help bring your attention to the situation but again has been exhibiting this behavior for quite sometime. Enclosing the group would be happy to speak or meet with you to discuss further.

(b) (6), (b) (7)(C)

Vibra Hospital of Sacramento (b) (6), (b) (7)(C)<sub>Hospital</sub>

## **ENCLOSURE 2**

### Performance Improvement Plan

\*Performance Management Record of Conference must accompany this plan

Employee name: (b) (6), (b) (7)(C)	Today's Date: <sup>তাত্যতা</sup> /2015
Department/Facility: Nursing	Date of Hire: (b) (6). (b) (7)(C)
Position: DOG.(0)	Supervisor: (b) (6), (b) (7)(C)

### REASON FOR PERFORMANCE IMPROVEMENT PLAN

Address multiple occurrences of tardiness
 (b) (6), (b) (7)(C)
 (2015), which is in violation of Vibra Healthcare Policy, Attendance, HR-302, citing: "Reporting to work any time after the scheduled starting time. Leaving early for or returning late from break period or meal periods will also be considered as a tardy."

- Absences related to call-ins for illness (b) (6), (b) (7)(C) are identified under policy HR-302, citing: "An Absence is the failure of a staff member to work one or more consecutive scheduled shifts for any reason (including illness, personal or family problems, car trouble, etc.)."
- Disrespectful conduct to a fellow Vibra employee; specifically, (b) (6), (b) (7)(C) and 2015) as identified in Conduct of Employees, Dated 07/01/2009: "Treat all employees, visitors, patients and vendors with respect at all times."
- Observed antagonistic persona as addressed with Conduct of Employees, Dated 07/01/2009: "Perform work assignments and comply with supervisory instructions except in circumstances when there is a reasonable belief that serious bodily injury might result, or that the task is unlawful." When instructed by (b) (6), (b) (7)(C) (2015) to end discussion and return to monitor station (b) (6), (b) (7)(C) initially rebutted requiring several restatements.

### HAS THIS CONCERN BEEN PREVIOUSLY DISCUSSED WITH THE EMPLOYEE? LIST ANY PREVIOUS CONSELING SESSIONS/CORRECTIVE ACTIONS:

- Verbal counseling on 2015 concerning unapproved absences.
- On the spot correction for disrespectful conduct to a (b) (6), (b) (7)(C) on (2015 and (2015)) (2015).

### EXPECTED LEVEL OF PERFORMANCE:

(b) (6), (b) (7)(C) you are expected to report to your assigned shift in timely manner in accordance with Vibra Healthcare Policy, Attendance, HR-302, which addresses your infractions of tardiness. Absences from callins for illness should not exceed the three in a three month period, which has occurred on multiple occasions, violating policy HR-302. You are charged to treat your fellow employees with respect and dignity. Additionally, you are required to comply with the instructions of those appointed over you.

	ON (please mark with X)
Verbal Warning	Extension of Orientation period
X_ 1 <sup>st</sup> Written Warning	Demotion
2 <sup>nd</sup> Written Warning	Suspension
Final Written	Termination
CORRECTIVE ACTION PLAN:	
vill strive to minimize your abse	within sufficient time; using the time clock to record your start of shift. Yo nces from illnesses to no more than two in a three month period. You will respect and curtesy. Finally, you will comply with the instructions applishment of your duties.
TIME FRAME FOR IMPROVEMEN	
(\$\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\	s circumstances dictate earlier intervention.
OLLOW-UP REVIEW DATE:	
<sup>(6), (0), (7)((</sup> /2015	
during or after this time, further EMPLOYEE COMMENTS: (attach	action, up to and including discharge, may be taken. a separate sheet if necessary)

Signatures:			
Supervisor	Date	Department Head	Date
and fully understand	the information provided abo having been counseled and/o	oportunity to discuss it with my superviove. I understand that my signature ind or warned and does not necessarily ind	licates
Human Resources Ge	eneralist Date	Fmplovee	Date

Page 3 of 3

## **ENCLOSURE 3**



# Performance Management Record of Conference

X Verbal (To document conversations only; no employee signature is required)	☐ 1 <sup>st</sup> Written	2 <sup>nd</sup> Written	☐ Final Written	☐ Termination
Name of	Employee: (b)	(6), (b) (7)(C)		Today's Date: _000002015
	Position: _	(b) (6), (b) (7)(0	C)	Date of Hire:
С	Department: No	ursing		
Name/Title of	Supervisor: _	(b) (6), (b)	(7)(C)	
REASON FOR CONFE		provious counceling \		
This is the first docume	ented occurrence	ce requiring (b) (6), (b)	(7)(C)attention. (b) (6)	(b) (7)(C) was reported to
the DoN due to comple	aints by (b) (6	6), (b) (7)(C) an	d (b) (6),	(b) (7)(C)
concerning behavi	or in response t	o <sup>(b) (b), (b)</sup> (7)(c) on the	(b) (6), (b)	allowed (b) (6) (b) (7)(c) to
get upset from the con inappropriate for (b) (6),	(b) (7)(C) <sub>(-</sub> (b) (6), (b) (	7)(C) allowed (b) (B	to become provo	ked and responded in a
negative, angry way.		G		
ACTION PLAN FOR IN	ADDOVEMENT.			
(To be completed by employee and			solutions, expectations, and	timeframes.)
				sheet and the EAP policy
				guided on how to best ve of the contact with the
				ternalize emotions rather
than present external				
			•	
EMPLOYEE COMMEN	NTS:			
(b) (6), (b) (7)(C) intends to p				
				is disrespectful and
the and stated that	ded point.	did acknowledge <b>"</b>	inappropriate co	onduct on the evening of
and stated tha	would con	temper an	d act more profess	sional in the luture.
I understand that my failure corrective action, up to and i				th above may result in further eipt of a copy of this record.
Employee Signature (Require	red for 1 <sup>st</sup> written ar	nd above)		Date
(b) (6), (b) (7)(C)				
Supervisor Signature (Requi	ired)		1	Date
04/07/2015				

## **ENCLOSURE 4**

### (b) (6), (b) (7)(C)

From:

(b) (6), (b) (7)(C)

Sent:

Friday, (b) (6), (b) (7)(C) 2015 6:52 AM

To:

(b) (6), (b) (7)(C)

Subject:

RE: Follow up

### (b) (6), (b) (7)(C)

Sorry for not getting back to you sooner.

and I have talked about this situation at length. After reviewing the situation here is what we can do to accommodate your work restrictions.

### Option One:

We have full time modified work on day shift and can accommodate your modifications. It is my understanding that with your school schedule this option will not work for you.

### Option Two:

We will work you on the shift where you are scheduled to be (b) (6), (b) (7)(C) on nights. If there are additional open (b) (6), (b) (7)(C) shifts on nights we will be able to utilize you in that role and accommodate your work restrictions. We have no other modified work available on the night shift at this time. Work comp will cover your missing hours the usual arrangements.

If you have additional questions please feel free to reach out to me and I will be happy discuss with you.

(b) (6), (b) (7)(C)

## (b) (6), (b) (7)(C)

Vibra Hospital Sacramento

(b) (6), (b) (7)(C)



From:

(b) (6), (b) (7)(C)

Sent: Thursday, (b) (6), (b) (7)(C), 2015 7:09 PM

To: (b) (6), (b) (7)(C)

Subject: Re: Follow up

Hello (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C)

I have seen the schedule and it looks like you have took me off the schedule. Please let me know why and what's going on.

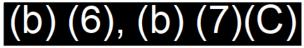
### (b) (6), (b) (7)(C)

Sent from my iPhone

On Sep 8, 2015, at 3:56 PM, (b) (6), (b) (7)(C) (avhsacramento.com wrote:

I am working with (10 (10 to 10)) on this and hope to have information to you sometime tomorrow

(b) (6), (b) (7)(C)



Vibra Hospital Sacramento (b) (6), (b) (7)(C)

(b) (6) (b) (7)(C) @VHS acramento.com



(b) (6), (b) (7)(C

Sent: Tuesday, (b) (6), (b) (7)(C) 2015 2:19 PM

To: (b) (6), (b) (7)(C)
Subject: Re: Follow up

Good afternoon thank you for responding back to me. I definitely appreciate it I Look forward to hearing what's going on have a wonderful day.

Sent from my iPhone

(b) (6), (b) (7)(C)

I received this from (b) (6), (b) (7)(C). You had my email incorrect.

I was not aware you were taken off the schedule. I will follow-up and let you know what

I find out.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

Vibra Hospital Sacramento

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)  $\overline{
m VHSacramento.com}$ 

From: (b) (6), (b) (7)(C)

Sent: (b) (6), (b) (7)(C) 2015 12:10 PM

To: (b) (6), (b) (7)(C)

Subject: Fwd: Follow up

Sent from my iPhone

Begin forwarded message:

From: (b) (6), (b) (7)(C)

Date: (b) (6), (b) (7)(C) 2015 at 11:49:23 AM PDT

Subject: Follow up

It Has been brought to my attention that I'm fully off the schedule and I wasn't schedule for last night however I call (b) (6). (b) (7)(c) am shift and spoke to (a) and (b) said that (b) needed me so I went in and covered the shift I talked to (a) this morning and (b) told me that I'm fully off the schedule so I don't I'm not sure what's going on but I would love some communication please I'm unable to go to the dayshift from what I've heard so please let me know what we plan on doing so that I can continue on getting my hours thank you very much and hope to hear from you soon thank you bye

(b) (6), (b) (7)(C)

Sent from my iPhone

## **ENCLOSURE 5**

### (b) (6), (b) (7)(C)

From:

(b) (6), (b) (7)(C)

Sent:

Thursday, (b) (6), (b) (7)(C) 2015 1:13 PM

To:

(b) (6), (b) (7)(C)

Subject:

RE: Not sure what's going on

importance:

High

### (b) (6), (b) (7)(C)

I have spoken with one can add you to the following dates as a night shift (b) (6), (b) (7)(C) 9/21, 10/1, 10/5, 10/12, 10/23

I need to know right away which of these shifts will work for you. If you are not available we will need to find alternative coverage.

(b) (6), (b) (7)(C)

### (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Vibra Hospital Sacramento

(b) (6), (b) (7)(C)

®VHSacramento.com

----Original Message----

From: (b) (6), (b) (7)(C)

Sent: Thursday, (b) (6), (b) (7)(C)<sub>2015</sub> 8:52 AM

To:

(b) (6), (b) (7)(C)

Subject: RE: Not sure what's going on

#### (b) (6), (b) (7)(C)

I was not aware that there was an issue with working the one (b) (6), (b) (7)(C) each week until I received this email. I spoke with because the other shift would not work for you. I have asked because the schedule because there is a (b) (6), (b) (7)(C) filling some shifts. If those shifts can fit with the accommodations then we will offer those to you. I will have more information later today.

If you would like to schedule time to discuss this matter in person please feel free to give me a call and we can set up a meeting.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Vibra Hospital Sacramento



----Original Message----

From: (b) (6), (b) (7)(C)

Sent: Wednesday, (b) (6), (b) (7)(C) 2015 10:32 PM

To: (b) (6), (b) (7)(C)

Subject: Not sure what's going on

Thx

(b) (6), (b) (7)(C)

Sent from my iPhone

## **ENCLOSURE 6**

(b) (6), (b) (7)(C)
From: Sent: Thursday, September 17, 2015 5:55 PM  (b) (6), (b) (7)(C)  (b) (6), (b) (7)(C)  Subject: Re: Not sure what's going on
Thank you for getting back to me again via email and the one on one face conversation thank you for handling the situation and I do look forward to being back on my regular schedule and being a part of my team and family at Vibra.
Sent from my iPhone
> On Sep 17, 2015, at 13:30, (b) (6), (b) (7)(C) @kentfieldrehab.com > wrote: > Hi @id=@id=@id=@id=@id=@id=@id=@id=@id=@id=
> I'm sorry that happened. There was a miscommunication with and apparently per diems were scheduled for (b) (6), (b) (7)(C) positions. (a) (a) (b) (c) (c) (c) (c) (c) (d) (d) (d) (d) (e) (e) (e) (e) (e) (e) (e) (e) (e) (e
> With regards to ((a)(a)(b)(7)(c) please know that ((a)(a)(b)(7)(c) and I discussed your concerns at length and then ((a)(a)(a)(a)(b)(a)(a)(b)(b)(c)(c)(c)(c)(c)(c)(c)(c)(c)(c)(c)(c)(c)
> Please let me know if you have additional concerns or questions. Hope all is well.
> > (b) (6), (b) (7)(C)
>(b) (6), (b) (7)(C) > (b) (6), (b) (7)(C)  ** Kentfield Rehabilitation &  ** Specialty Hospital
> 1125 Sir Francis Drake Boulevard
> Kentfield, CA 94904 > Phone ((b) (6), (b) (7)(C) > Fax (415) 485-3514
> (b) (6), (b) (7)(C) @kentfieldrehab.com
> >
>
>
> The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material, the disclosure of which is governed by applicable law. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error please contact the sender and destroy the materials contained in this message.
>Original Message
> From: (b) (6), (b) (7)(C)

- > Sent: Wednesday, (b) (6), (b) (7)(C) 2015 10:32 PM (b) (6), (b) (7)(C)
- > Subject: Not sure what's going on

> Hello (10,0), (10,0) and (10,0), (10,0) (1) I'm attempting to reach out and find out what's going on with this investigation as you know that I've been taken off the schedule and now I am not able to work my one day a week that I was allowed to work on (b) (6), (b) (7)(C) I am definitely feeling left in the dark and unfairly treated do to the lack of communication. I'm not sure of the protocol for a situations like this but I do know that on my schedule appointment to talk to HR (b) (6), (b) (7)(c) about the situation that happened on (b) (6), (b) (7)(c) with (b) (6), (b) (7)(c) we were accompanied by (b) (6), (b) (7)(c) the new (b) (6), (b) (7)(c) as I finish up with my statement with (b) (6), (b) (7)(C) proceeded to give me a disciplinary action/performance evaluation filled out by (b)(6)(6)(7)(C) At this time I express my sadness on how (a)(a) approached me in the situation and how unappropriate it is to have a write up for me signed by my aggressive (10,00,00,00) Upon actions follow by the reflection of (b) (6), (b) (7)(C) has made me feel unappreciated, attacked and undervalue as a (b) (6), (b) (7)(C) employee. Please let me know what's going on.

- > Thx
- >(b) (6), (b) (7)(C)

>

> Sent from my iPhone

From: Bagley, Bruce
To: Hoffmann, Samuel J.

**Subject:** RE: Vibra Hospital 20-CA-159259

Date:Wednesday, November 18, 2015 3:27:12 PMAttachments:Ltr. to NLRB-Hoffmann (A4801436).pdfEnclosures 1 2 re Hoffmann Ltr. (A4800683).pdf

Sam, please see the attached in response to your email request of 11/3. As noted in the letter, I will be sending you Enclosure 3 shortly under separate cover.

Bruce

#### **Bruce D. Bagley**

McNees Wallace & Nurick LLC 100 Pine Street, P. O. Box 1166 Harrisburg, PA 17108-1166 Direct Telephone: 717.237.5338

FAX: 717.260.1661 bbagley@mwn.com

NOTICE: The foregoing message may be protected by the attorney-client privilege. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.

**From:** Hoffmann, Samuel J. [mailto:Samuel.Hoffmann@nlrb.gov]

Sent: Tuesday, November 3, 2015 5:21 PM

To: Bagley, Bruce

Subject: Vibra Hospital 20-CA-159259

In addition to the position statement that was provided, please respond to the following questions and provide additional documentation:

- Did the Employer conduct an investigation regarding the encounters between and (b) (6).(b) (7)(c) If so, please provide a detailed account of who was interviewed, what questions were asked/what responses were given, and any/all documentation of this investigation.
- Did the Employer meet with (b) (6), (b) (7)(C) to discuss conduct or the email that was sent to (b) (6), (b) (7)(C)? If so, please provide a detailed account of the Employer's meeting with (b) (6), (b) (7)(C) and any/all relevant documentation.
- Did (b) (6), (b) (7)(C) receive any discipline as a result of Please provide a copy of disciplinary record.
- In the position statement it states that "the PIP also noted that <sup>(b) (6), (b) (7)(C)</sup> had been disrespectful to and had refused to return to work station when directed." When was <sup>(b) (6), (b) (7)(C)</sup> told to return to work station? Please provide a detailed account of the

- events where the Employer alleges that (b) (6), (b) (7)(C) refused to return to work.
- The (b) (6), (b) (7)(C) email to (b) (6), (b) (7)(C) says that (could work FT modified work on day shift or (b) (6), (b) (7)(C) work on nights that accommodate (could work FT modified work on day shift respond to this email? If so, please provide a copy of (b) (6), (b) (7)(C) response.
- Please provide copies of comparable employees that have been disciplined for tardiness (including examples of employees returning late from break), call-ins, and disrespectful conduct.

Please feel free to contact me with any questions or concerns you may have.

Samuel Hoffmann Field Examiner National Labor Relations Board Region 20 901 Market Street, Suite 400 San Francisco, CA 94103-1735 Phone: (415) 356-5167

Fax: (415) 356-5156



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166 Tel: 717.232.8000 • Fax: 717.237.5300 Bruce D. Bagley Direct Dial: 717.237.5338 Direct Fax: 717.260.1661 bbagley@mwn.com

November 18, 2015

Samuel J. Hoffmann, Field Examiner National Labor Relations Board Region 20 901 Market Street, Suite 400 San Francisco, CA 94103-1738

RE: Vi

Vibra Hospital of Sacramento

Case 20-CA-159259 Our File No. 23901-0022

Dear Mr. Hoffmann:

This is in response to your correspondence of November 3, 2015, requesting additional information with regard to the above-captioned Unfair Labor Practice Charge.

Your first question was whether the Hospital investigated the encounters between and (b)(6),(b)(7)(C), and if so, to provide a detailed account.

the time was (b) (6), (b) (7)(C) (in training), spoke to both (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) discussions. There were no notes taken by (b) (6), (b) (7)(C) although as you know, (b) (6), (b) (7)(C) was present during the (b) (6), (b) (7)(C) also met with (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) was present during the (b) (6), (b) (7)(C) although as you know, (b) (6), (b) (7)(C) was present during the (b) (6), (b) (7)(C) although as you know, (b) (6), (b) (7)(C) was present during the (b) (6), (b) (7)(C) although as you know, (b) (6), (b) (7)(C) was present during the (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) discussions. There were no notes taken by (b) (6), (b) (7)(C) although as you know, (b) (6), (b) (7)(C) was present during the (b) (6), (b) (7)(C) although as you know, (b) (6), (b) (7)(C) was present during the (b) (6), (b) (7)(C) although as you know, (b) (6), (b) (7)(C) was present during the (b) (6), (b) (7)(C) although as you know, (b) (6), (b) (7)(C) was present during the (b) (6), (b) (6), (b) (7)(C) was present during the (b) (6), (b) (7)(C) was present during the (b) (6), (b) (7)(C

Regarding your next question, Hospital management did not meet with (b) (6), (b) (7)(C) regarding e-mail complaining about e-mail complaining about

With regard to your question concerning whether (b) (6), (b) (7)(C) received any discipline as a result of interactions with please be advised that not only was (b) (6), (b) (7)(C) not

#### www.mwn.com

Samuel J. Hoffmann, Field Examiner November 18, 2015 Page 2

disciplined was in fact promoted on (b) (6), (b) (7)(C) 2015 to the position of (b) (6), (b) (7)(C)

With regard to (b)(6),(b)(7)(c), you have asked whether was told to return to workstation on (b)(6),(b)(7)(c), 2015. Was indeed requested to do so by (b)(6),(b)(7)(c). When (b)(6),(b)(7)(c) joined the discussion taking place among (b)(6),(b)(7)(c) had left monitor station unattended, and walked over to the area where the other three were conversing. requested that (b)(6),(b)(7)(c) return to workstation, as for patient safety, there has to be an employee watching the monitor at all times. (Even when (b)(6),(b)(7)(c) leaves workstation to go to the bathroom, there must be a replacement so that the monitor is not left unobserved.) It was not until (b)(6),(b)(7)(c) subsequently instructed both (b)(6),(b)(7)(c) and (c)(6),(c)(7)(c) finally returned to (c)(6),(c)(7)(c) and (c)(6),(c)(7)(c)(6),(c)(7)(c) and (c)(6),(c)(7)(c)(6),(c)(7)(c)(7)(c) and (c)(6),(c)(7)(c)(7

You have also asked whether (b)(6), (b)(7)(C) responded to the (b)(6), (b)(7)(C) e-mail from (b)(6), (b)(7)(C) offering that (b)(6), (b)(7)(C) could work either full-time modified work on day shift, or (b)(6), (b)(7)(C) on nights. At Enclosure 2 please see e-mail correspondence showing that (b)(6), (b)(7)(C) met with (b)(6), (b)(7)(C) and offered (b)(6), (b)(7)(C) and offered (b)(6), (b)(7)(C) (worked full shift), (b)(6), (b)(7)(C) (added to schedule but (b)(6), (b)(7)(C) (later stated (b)(6), (b)(7)(C)) (worked full shift), (b)(6), (b)(7)(C)), (b)(6), (b)(7)(C)) (worked full shift), (b)(6), (b)(7)(C))

With regard to your request regarding other employees who have been disciplined for reasons similar to those involving b(6).(b)(7)(c) at Enclosure 3 please find documentation regarding a variety of employee disciplinary actions. You will see that it was not uncommon for the Hospital to discipline employees for attendance violations and to place employees on performance improvement plans.

We trust that with this additional information you will have completed your investigation. For all of the reasons previously stated in our Position Statement of October 14, it is the Hospital's position that (b)(6),(b)(7)(c) has not been discriminated against and that the Charge lacks legal merit. Therefore we continue to request that the Charge be dismissed.

Thank you for your attention to the above.

You had requested a copy of (b) (6), (b) (7)(C) disciplinary history. It is at Enclosure 3, referenced further below.

Samuel J. Hoffmann, Field Examiner November 18, 2015 Page 3

Sincerely,

McNEES WALLACE & NURICK LLC

B۷

Bruce D. Bagley



## **ENCLOSURE 1**

#### 12 November 2015

Memorandum for record: National Labor Relations Board (NLRB), (b) (6), (b) (7)(C) v. (b) (6), (b) (7)(C)

In response to the inquiry of the NLRB:

PIP also noted that (b)(6),(b)(7)(c) had been disrespectful to (c)(6),(b)(7)(d) and had refused to return to (c)(6),(b)(7)(d) told to return to (c)(6),(b)(7)(d) work station? Please provide a detailed account of the events where the Employer alleges that (c)(6),(b)(7)(d) refused to return to work.

## **ENCLOSURE 2**

#### (b) (6), (b) (7)(C)

From:

(b) (6), (b) (7)(C)

Sent:

Monday, November 09, 2015 1:48 PM

To:

(b) (6), (b) (7)(C)

Subject:

RE: Not sure what's going on

🎮 shifts: ame into my office to discuss adding of to the dates below. of was added/offered the following of shifts:

9/17 offered shift - declined

9/18 offered shift - worked full shift

9/21 added to sched - notified me on 9/18 that can not work due to work at another location/ per diem EE covered as originally scheduled.

10/1 worked full shift

10/5 worked full shift

10/12 worked full shift

10/23 - Declined shift - out of town 10/20 thru 10/26

# (b) (6), (b) (7)(C)

Vibra Hospital – Sacramento 330 Montrose Dr Folsom, Ca 95630

(b) (6), (b) (7)(C)@vhsacramento.com

----Original Message----

From: (b) (6), (b) (7)(C)

Sent: Monday, November 09, 2015 1:25 PM

To (b) (6), (b) (7)(C)

Subject: FW: Not sure what's going on

Importance: High

H (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C)

I'm trying to figure out of ever responded to you about whether or not could work these dates and if so, whether or not actually worked any of them. Thanks much!

## (b) (6), (b) $(7)(C)_{\text{Kentfield Rehabilitation & Specialty Hospital}}$

1125 Sir Francis Drake Boulevard

Kentfield, CA 94904

Phone ((b) (6), (b) (7)(C)

Fax (415) 485-3514

(b) (6), (b) (7)(C) kentfieldrehab.com

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material, the disclosure of which is governed by applicable law. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error please contact the sender and destroy the materials contained in this message.

----Original Message----

From (b) (6), (b) (7)(C)

Sent: Thursday, (b) (6), (b) (7)(C) 2015 1:13 PM

To: (b) (6), (b) (7)(C)

Subject: RE: Not sure what's going on

Importance: High

(b) (6), (b) (7)(C)

I have spoken with one can add you to the following dates as a night shift (b) (6), (b) (7)(C):

(b) (6), (b) (7)(C)

I need to know right away which of these shifts will work for you.

If you are not available we will need to find alternative coverage.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Vibra Hospital Sacramento

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)VHSacramento.com

From: Bagley, Bruce To: Hoffmann, Samuel J.

Subject: Enclosure 3

Date: Wednesday, November 18, 2015 3:27:51 PM

<u>Discipline</u> - (b) (6), (b) (7)(C) <u>.pdf</u> <u>Discipline</u> - (b) (6), (b) (7)(C) <u>.pdf</u> Attachments:

Discipline - (b) (b), (b) (7), (c) poir Discipline - (b) (6), (b) (7)(c) poir Discipline - (b) (6), (b) (7)(c) polf Discipline - (b) (6), (b) (7)(c) polf Discipline - (b) (6), (b) (7)(c) polf Discipline - (b) (6), (b) (7)(c) Discipline -Discipline -

Sam, per my last email, attached please find the disciplinary actions referenced in my letter as Enclosure 3.

Bruce

**Bruce D. Bagley** 

McNees Wallace & Nurick LLC 100 Pine Street, P. O. Box 1166 Harrisburg, PA 17108-1166 Direct Telephone: 717.237.5338

FAX: 717.260.1661 bbagley@mwn.com

NOTICE: The foregoing message may be protected by the attorney-client privilege. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error, then delete it. Thank you.



Name: (b) (6), (b) (7)(C)

Department: Respiratory Therapy

Date: (6), (6), (6), (7)

#### Statement of Corrective Action/Expected Performance/Action Plans:

The Hospital has identified areas of opportunities for improvement. This document is identifying my expectations of your performance as well as an opportunity for you to provide feedback to improve the operations of the hospital and department.

Since have had no prior warnings on your prior unscheduled absences, you are now being placed on a Verbal Coaching for your attendance. Your unscheduled absences are listed below:

April 29, 2013 – April 30, 2013 September 21, 2013 September 23, 2013 October 1, 2013 November 3, 2013 December 3, 2013

Description of Action Taken:

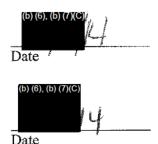
(b) (6), (b) (7)(C) is receiving a Verbal Coaching for failing to comply with the Attendance Policy. As an employee of Vibra Hospital Sacramento you are expected to be punctual and regular in attendance. Any tardiness or absence causes problem for your fellow employees and your supervisor. When you are absent, your assigned work must be performed by others which may impact the delivery of patient care. If any additional occurrences or failing to meet expectations as outlined above may result in additional corrective action up to and including termination of employment.

The Hospital would like to take this opportunity to remind you of our Employee Assistance Program administered through Lincoln Financial. I am including an informational sheet to this document for your reference. As a reminder, your participation in our EAP program is kept confidential.

Supervisor's Signature (I have investigated the circumstances surrounding this notice and have verified to the best of my knowledge and belief that the action taken is within Company policy, and that the information is factual.).

Employee's Signature(My signature indicates that I have received a copy of this Corrective Action and Action Plan and that I have been given an opportunity to comment, but it does not indicate that I necessarily agree with all the above sta(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)



TOUR 3/13

## Time Off Request



5	elect Time Off Request Type		
	Paid Time Off (PTO) CM L L L L L L L L L L L L L L L L L L	Porte 4 29 4 30	9,75 12,0
	Flexing & PTO  If the employee is flexed, minimum PTO is 1 hour. Total hours paid shall not exceed scheduled hours.		
	Jury Duty Please attach proof of attendance and pay documentation to this form (if applicable).		
a	Bereavement for Immediate Family Members Complete this section if selected. List of immediate		Halde

Sign-Offs &	& Validation
Completed by and for:	b) (6), (b) (7)(C)
Employee Signature Date  (a) (b) (7)(C)	(b) (6), (b) (7)(C)
nel No.	)

family members can be found on page 58 of the

Before dropping thi	nis form into the "	Document L	Drop" box at tr	ne reception.	blease c	complete
this section:						
	-					

All fields on this form are complete.

Employee Handbook.

• Name of deceased:

Relationship to deceased:

- ☐ Employee has <u>signed</u> and dated the form.
- Supervisor has signed and dated the form.

## TO payrole 9/24/13

## Vibra Hospital of Sacramento Time Off Request



A new form must be completed for EACH payroll period.

Paid Time Off (PTO)

Minimum PTO is:

- Exempt (salaried): 4 hours
- Non-exempt (hourly): 2 hours
   Total hours paid per day shall equal scheduled hours.
- If the employee is flexed, minimum PTO is 1 hour. Total hours paid shall not exceed scheduled hours.
- Jury Duty Please attach proof of attendance and pay documentation to this form (if applicable).
- Bereavement for Immediate Family Members Complete this section if selected, Immediate family members are parents, siblings, spouse, children and corresponding in-law or step family members.
  - Name of deceased:
  - Relationship to deceased:

	Engant programme
9/24/12	Hours (1)
4/24/12	12
:	
	<del></del>
<del></del>	
	THE COLUMN TWO IS NOT THE OWNER.

Sign-Offs Completed by and for:	(b) (6), (b) (7)(C)	
		9/2
/O\		Date

b) (6), (b) (7)(C)

9/2412

Before dropping this form into the "Document Drop" box at the reception, please complete this section:

- All fields on this form are complete.
- ☐ Employee has <u>signed</u> and <u>dated</u> the form.
- Supervisor has signed and dated the form.

to payroll 1/1/13

## Vibra Hospital of Sacramento **Time Off Request**



Sel	ect Time Off Request Type			
Ar	ew form must be completed for EACH payroll period.		Spate 1	By Hours
X	Paid Time Off (PTO)  Minimum PTO is:  Exempt (salaried): 4 hours  Non-exempt (hourly): 2 hours  Total hours paid per day shall equal scheduled hours.	The second secon	MOD	10
	Flexing & PTO  If the employee is flexed, minimum PTO is 1 hour. Total hours paid shall not exceed scheduled hours.			
	Jury Duty Please attach proof of attendance and pay documentation to this form (if applicable).		The state of the s	
	Bereavement for Immediate Family Members Complete this section if selected. Immediate family members are parents, siblings, spouse, children and corresponding in-law or step family members.  Name of deceased:	*		
	Relationship to deceased:			

	Sign-Offs:	& Validation	
	Completed by and for:	(b) (6), (b) (7)(C)	1/11/13
(b)	(6), (b) (7)(C)	(b) (6), (b) (7)(C)	Date
	ample) so trame (tram) - orsermel No.	Supervisor name (Frint)	

Before	dropping	this form	into the	"Document	Drop" box	at the r	eception,	please	complete
this sec	ction:								
	# I C ::	11. * *							

- All fields on this form are complete.Employee has signed and dated the form.
- Supervisor has signed and dated the form.

## **Vibra Hospital of Sacramento Time Off Request**



Sel	ect Time Off Request Type	i ki Januara nize i si peren si mete i enggi i ji kumanda vezula soli ji ku peren
	ew form must be completed for EACH payroll period.	Date Hours
X	Paid Time Off (PTO) SUCK Minimum PTO is:  • Exempt (salaried): 4 hours  • Non-exempt (hourly): 2 hours Total hours paid per day shall equal scheduled hours.	10/11/3 12
	Flexing & PTO  If the employee is flexed, minimum PTO is 1 hour. Total hours paid shall not exceed scheduled hours.	
	Jury Duty Please attach proof of attendance and pay documentation to this form (if applicable).	
	Bereavement for Immediate Family Members Complete this section if selected. Immediate family members are parents, siblings, spouse, children and corresponding in-law or step family members.  Name of deceased:  Relationship to deceased:	
) Comp	Sign=Offs & Validation (b) (6), (b)	(7)(C)
၁)	(6), $(b)$ $(7)$ $(c)$	Date (Print)
pn	Syee Name (Firm) Feisonile No. Supervisor Name	Ar in al
this s	re dropping this form into the "Document Drop" box at the rece ection: all fields on this form are complete. Imployee has signed and dated the form. Impervisor has signed and dated the form.	eption, please complete

10 payio11 129/13

## Vibra Hospital of Sacramento Time Off Request



Select Time Off Request Type A new form must be completed for EACH payroll period. Hours Paid Time Off (PTO) Minimum PTO is: Exempt (salaried): 4 hours Non-exempt (hourty): 2 hours Total hours paid per day shall equal scheduled hours. ☐ Flexing & PTO If the employee is flexed, minimum PTO is 1 hour, Total hours paid shall not exceed scheduled hours. ☐ Jury Duty Please attach proof of attendance and pay documentation to this form (if applicable). Bereavement for Immediate Family Members Complete this section if selected, Immediate family members are parents, siblings, spouse, children and corresponding in-law or step family members. Name of deceased: Relationship to deceased:

Ś	ign-Offs	& Validation	
Completed by and for: (b) (6), (b) (7)(C)	12/8/13 Date	(b) (6), (b) (7)(C)	12/9/13 Date
(b) (6), (b) (7)(C)	ersonnel No.	(b) (6), (b) (7)(C)	

Before dropping this form into the "Document Drop" box at the reception, please complete
this section:
All fields on this form are complete.
Employee has signed and dated the form.
Supervisor has signed and dated the form.

TO Pay1011 9/24/13

## Vibra Hospital of Sacramento Time Off Request



Select Time Off Request Type - Hours A new form must be completed for EACH payroll period. Paid Time Off (PTO) Minimum PTO is: Exempt (salaried): 4 hours Non-exempt (hourly): 2 hours Total hours paid per day shall equal scheduled hours. ☐ Flexing & PTO If the employee is flexed, minimum PTO is 1 hour. Total hours paid shall not exceed scheduled hours, Jury Dufy Please attach proof of attendance and pay documentation to this form (if applicable). Bereavement for Immediate Family Members Complete this section if selected, Immediate family members are parents, siblings, spouse, children and corresponding in-law or step family members. Name of deceased: Relationship to deceased:

Employe	and the same in the same		_			
, .	e signature	Date				Date
(I	b) (6), (b) (7)(C)		lo	(b) (6), (b) (7)	(C) 	

Supervisor has signed and dated the form.



## Performance Management Record of Conference

☑ Verbal (To document conversations only; no employee signature is required)	☐ 1 <sup>st</sup> Written	☐ 2 <sup>nd</sup> Written	☐ Final Written	☐ Termination
Name of	Employee: (b)	(6), (b) (7)(C)		Today's Date: _ <sup>[0](0,(0)(7)(0)</sup> 2015_
	Position: (b) (6),	(b) (7)(C)		Date of Hire: _(b) (6), (b) (7)(C)
	Department: Nu			
Name/Title of	Supervisor: (b	) (6), (b) (7)(	C)	
REASON FOR CONFI			and Punctuality St	andards policy
You have had 2 unappro 03/21/15	oved absences in	the last 90 days res	sulting in 3 missed da	ys of work: 02/20-21/15 and
ACTION PLAN FOR II (To be completed by employee ar			ic solutions, expectations, ar	nd timeframes.)
,				If you have any additional
you will receive addition	•			anctuality Standards policy,
EMPLOYEE COMME	NTS:	AAAMMA WAXAA AAAA		
	-			
corrective action, up to and	including the term			orth above may result in further eceipt of a copy of this record.
(b) (6), (b) (7)(	3)	and above)		Date (b) (6), (b) (7)(c)
(b) (6), (b)	(7)(C)			Date (0)(0)(0)(7)(0)
HR Signa		11/11/11/14/14/14/14/14/14/14/14/14/14/1		Date



## Individual Education/Coaching Documentation

Employee Name:	(b) (6), (b) (7)(C)	
Date:	(b) (6), (b) (7)(C) 2015	
Education Topic:	Confidentiality of patient information	
Department:	Nursing	,
Supervisor:	(b) (6), (b) (7)(C)	

Description of Education:
Vibra healthcare takes the confidentiality and privacy of patient information seriously. A clip board containing patient worklists/documents was discovered by (b) (6), (b) (7)(C) in Café, unattended, face down on a table. No other individuals appeared to have viewed the documents. (b) (6), (b) (7)(C) returned the documents to the employee. In the presence of (b) (6), (b) (7)(C) discussed importance of keeping track of patient documents and possible repercussions of unauthorized individuals reviewing the patient data (i.e., reporting breach of patient privacy, potential survey, fines and penalties against the facility). Employee verbalized understanding.

Employee Comments:	
NOME CY	
(b) (6), (b) (7)(C)	
	(b) (6), (b) (7)(C) [] [] [] []
	<del>Date</del> Time
(b) (6), (b) (7)(C)	(b) (b) (b) (b) (c) (c) (c) (d) (d) (d) (d) (d) (d) (d) (d) (d) (d
	Date Time
(b) (6), (b) (7)(C)	
	(b) (6), (b) (7)(C)/
	Date Time
	Date fille

<sup>\*\*</sup>Distribute copy to HR/Education for Staff file\*\*



## **First Notice**

Dear (b) (6), (b) (7)(C)
From review of your timecard for the payroll period ending [15] we noted the following non-compliance with policy:
meeting). missed punches without an acceptable explanation (e.g. offsite
missed meals.
X <u>4 incidents of incremental overtime. 4 times for punching out late at end o shift.</u>
Other:
A copy of this letter has been included in your personnel file. Three of such letter within 3-month timeframe will lead to disciplinary action.
Sincerely,
(b) (6), (b) (7)(C)



Name: Date:

(b) (6), (b) (7)(C) (b) (6), (b) (7)(C), 2014

#### Statement of Corrective Action/Expected Performance/Action Plans:

The Hospital has identified areas of opportunities for improvement. This document is identifying my expectations of your performance as well as an opportunity for you to provide feedback to improve the operations of the hospital and department.

On 10/11/14 you called in on an unscheduled absence. Adding this to the 3 prior absences you have results in a total of 4 absences for your rolling 12-month period. You are now being given a **Coaching Warning** for your attendance. Your unscheduled absences are listed below:

2/1/14 2/13/14 5/10/14 10/11/14

Description of Action Taken:

Hospital Sacramento you are expected to be punctual and regular in attendance. Any tardiness or absence causes problem for your fellow employees and your supervisor. When you are absent, your assigned work must be performed by others which may impact the delivery of patient care. If any additional occurrences or failing to meet expectations as outlined above may result in additional corrective action up to and including termination of employment.

The Hospital would like to take this opportunity to remind you of our Employee Assistance Program administered through Lincoln Financial Lam including an informational sheet to this document for your reference. As a reminder, your **(6)** kept confidential.



Employee's Signature (My signature indicates that I have received a copy of this Corrective Action and Action Plan and that I have been given an opportunity to comment, but it does not indicate that I necessarily agree with all the above statement(s).

(b) (6), (b) (7)(C)

Department Director/Manager/Supervisor

Date

Supervisor's Signature (I have investigated the circumstances surrounding this notice and have verified to the best of my knowledge and belief that the action taken is within Company policy, and that the information is factual.).



Name: (b) (6), (b) (7)(C)

Department: Nursing

Date: (10,000)/2014

#### Statement of Corrective Action/Expected Performance/Action Plans:

The Hospital has identified areas of opportunities for improvement. This document is identifying my expectations of your performance as well as an opportunity for you to provide feedback to improve the operations of the hospital and department.

#### Description of Action Taken:

Each employee is responsible for maintaining a current BLS and ACLS certification as required by your position and to provide evidence of recertification. In the event and employee's BLS or ACLS expires, the employee will be removed from the schedule until they are able to recertify, not to exceed 30 days. You were removed from the schedule and suspended until you were able to recertify your ACLS certification.

(b) (6), (b) (7)(C) is receiving a Written Warning for failing to provide ACLS certification. If any additional occurrences or failing to meet expectations as outlined above may result in additional corrective action up to and including termination of employment.

The Hospital would like to take this opportunity to remind you of our Employee Assistance Program administered through Lincoln Financial. I am including an informational sheet to this document for your reference. As a reminder, your participation in our EAP program is kept confidential.

Supervisor's Signature (I have investigated the circumstances surrounding this notice and have verified to the best of my knowledge and belief that the action taken is within Company policy, and that the information is factual.).

Employee's Signature(My signature indicates that I have received a copy of this Corrective Action and Action Plan and that I have been given an opportunity to comment, but it does not indicate that I necessarily agree with all the above

Empl	(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)
Department ger/Supervisor	Date



#### **Employee Corrective Action**

Name; Date: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) 2014

#### Statement of Corrective Action/Expected Performance/Action Plans:

The Hospital has identified areas of opportunities for improvement. This document is identifying my expectations of your performance as well as an opportunity for you to provide feedback to improve the operations of the hospital and department.

On 10/11/14 you called in on an unscheduled absence. Adding this to the 3 prior absences you have results in a total of 4 absences for your rolling 12-month period. You are now being given a **Coaching Warning** for your attendance. Your unscheduled absences are listed below:

2/1/14 2/13/14 5/10/14 10/11/14

Description of Action Taken:

Hospital Sacramento you are expected to be punctual and regular in attendance. Any tardiness or absence causes problem for your fellow employees and your supervisor. When you are absent, your assigned work must be performed by others which may impact the delivery of patient care. If any additional occurrences or failing to meet expectations as outlined above may result in additional corrective action up to and including termination of employment.

The Hospital would like to take this opportunity to remind you of our Employee Assistance Program administered through Lincoln Financial. I am including an informational sheet to this document for your reference. As a reminder, your participation in our EAP program is kept confidential.

Employee Signature		ite
Employee's Signature (My signature) that I have been given an opportunit statement(s).	WIBRA HOSPITAL	rrective Action and Action Plan and essarily agree with all the above
(b)	Sacramento (6), (b) (7)(C), / 916.351.9151	
Department Director/Manager/Supe	9	te
Supervisor's Signature (I have invektorwelded and belief that the action	refused 1. 8:90, wants to tak for the (b) (6), (b) (7)(c)	e and have verified to the best of my formation is factual.).



(Press TAB or your mouse to maneuver between fields or lines. Do not press "Enter")

### Performance Improvement Form

Employee name: (b) (6), (b) (7)(0		Today's date	-2011
Department/facility: 111/4809		Date of hire:	
Position: (b) (6)		Supervisor:	) (7)(C)
			<i>b</i>
REASON FOR COUNSELING/CORF	RECTIVE ACTION:		Water and the Wa
medication and was found on the	d out by you @ 1700 on <sup>[0][6]</sup> /11 at CSAR as required by Kindred p y not having a witness and a co-s	nd was not witnesse olicy and DEA regu	at a controlled substances d and co-signed when you wasted the alations. In summary, insufficient dications you wasted, you violated
HAS THIS CONCERN BEEN PREVIO	OUSLY DISCUSSED WITH THE EMP	PLOYEE? LIST ANY F	PREVIOUS COUNSELING
SESSIONS/CORRECTIVE ACTIONS	3:	-Automotoria	
No.			
EXPECTED LEVEL OF PERFORMA	NCE:		
	ures of Medication Administration	on.	
Abide by all company and Hospi Failure to abide by all these police		further disciplinary	action up to and including termination.
	☐ Verbal counseling		Extension of orientation period
COUNSELING/ CORRECTIVE	☑ Written warning		Demotion
ACTION (Please mark with "X")	☐ Final written warning		Suspension
	☐ Discharge		Other

CORRECTIVE ACTION PLAN:
To follow the policies and procedures of Medication Administration. Signing out the narcotic sheets for taking out medications and documenting the medications given in Protouch ina timely manner.
TIME FRAME FOR IMPROVEMENT:
Immediate.
FOLLOW-UP REVIEW DATE: With any occurrance
It is essential that immediate steps are taken to improve and maintain performance to the required level. If demonstrated material improvement is not made during this time frame, or if performance deteriorates during or after this time, further action, up to and including discharge, may be taken before the end of this time period or after this time period.
EMPLOYEE COMMENTS: (Attach a separate sheet if necessary)
My neitness fugat to sign
Has employee been reminded of the Open Door Policy
Signatures
(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) - //
Supervise Date Department Head Date
I have been provided a copy of this form and a full opportunity to discuss it with my supervisor. I have read and fully understand the information provided above. I understand that my signature indicates acknowledgment of having been counseled and/or warned and does not necessarily indicate agreement with my supervisor's statement.
(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
//

PLACE FORM IN EMPLOYEE'S PERSONNEL FILE

Date

Witness (if employee refuses to sign) Date



## **Third Notice**

	(b) (6), (b) (7)(C)  Dear
	From review of your timecard for the payroll period ending noted the following non-observance with policy:
	missed punches without an acceptable explanation (e.g. offsite meeting).
	missed meals.
, and	□ 0-25 hours of unapproved overtime.
	Other:
	Timekeeping policies can be found on pages 35 to 37 of the Kindred Employee Handbook.
	A copy of this letter has been included in your personnel file. This is your third and final warning within a 6-month timeframe regarding timekeeping. The next breach of policy will result in disciplinary action.
	Sincerely. (b) (6), (b) (7)(C)
	Human Resources
	(b) (6), (b) (7)(C)



## **Second Notice**

(b) (6), (b) (7)(C)
Dec ,
From review of your timecard for the payroll period ending, we noted the following non-observance with policy:
missed punches without an acceptable explanation (e.g. offsite meeting).
missed meals.
1-50 hours of unapproved overtime.
Other:
Timekeeping policies can be found on pages 35 to 37 of the Kindred Employee Handbook.
A copy of this letter has been included in your personnel file. Three of such letters within 6-month timeframe will lead to disciplinary action.
Sincerely, (b) (6), (b) (7)(C)
noman resources
(b) (6), (b) (7)(C)



### **Second Notice**

(b) (6), (b) (7)(C)
Dear
(b) (6) (b) (7)(C)
From review of your timecard for the payroll period ending (b)(6), (b)(7)(c)/12, we
noted the following non-observance with policy:
missed punches without an acceptable explanation (e.g. offsite meeting).
missed meals.
hours of unapproved overtime.
Other:
Timekeeping policies can be found on pages 35 to 37 of the Kindred Employee Handbook.
A copy of this letter has been included in your personnel file. Three of such letters
within 6-month timeframe will lead to disciplinary action.
Sincoroly
(b) (6), (b) (7)(C)
HUMON RESOURCES
numan resources
(b) (6), (b) (7)(C)

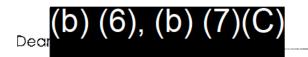


## **First Notice**

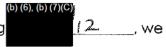
(b) (6), (b) (7)(C)								
Dear								
(b) (6), (b) (7)(C)								
From review of your timecard for the payroll period ending, we								
noted the following non-observance with policy:								
missed punches without an acceptable explanation (e.g. offsite meeting).								
missed meals.								
hours of unapproved overtime.								
Other:								
Timekeeping policies can be found on pages 35 to 37 of the Kindred Employee Handbook.								
A copy of this letter has been included in your personnel file. Three of such letters within 6-month timeframe will lead to disciplinary action.								
Sincerely (b) (6), (b) (7)(C)								
Human Resources								
(b) (6), (b) (7)(C)								



### First Notice



From review of your timecard for the payroll period ending noted the following non-observance with policy:



	missed punches without an acceptable explanation	(e.g.	offsite
meeting).			

missed meals.

Other:

Handbook.

 $\square$  1-25 hours of unapproved overtime.

Timekeeping policies can be found on pages 35 to 37 of the Kindred Employee

A copy of this letter has been included in your personnel file. Three of such letters within 6-month timeframe will lead to disciplinary action.



Name: (b) (6), (b) (7)(C)

Department: (b) (6), (b) (7)(C)

Date: (0)(6),(0)(7)/2014

#### Statement of Corrective Action/Expected Performance/Action Plans:

The Hospital has identified areas of opportunities for improvement. This document is identifying my expectations of your performance as well as an opportunity for you to provide feedback to improve the operations of the hospital and `

On 8/5/2014 – Night shift, a patient in room complained that did not receive scheduled Oxycontin 30 mg tab q 8 hrs on 8/6/14 – 06:00 am dose, as a result patient was in severe pain and upon investigation there was no documentation in HMS about any reason for withholding the scheduled dose or putting it on hold for other medical reasons like low blood pressure. You also stated that you did not give the scheduled dose because got distracted and forgot.

This made your hand off communication at change of shift reporting incomplete. You are always required to give medications in a timely manner and proper documentations if medications are missed or withheld. You also did not perform checking of over dues before end of shift.

You failed to comply on Vibra Hospital's Medication Administration Policy and Hand off Communication policy of Vibra Hospital.

#### Description of Action Taken:

(b) (6). (b) (7)(C) is receiving a Verbal Warning for failing to comply with the Vibra Hospital's Policies and Procedures. Immediate and sustained improvement on Hand off Communication and Medication Administration. Immediate and sustained improvement on following Vibra Hospital's Policies and Procedures. If any additional occurrences or failing to meet expectations as outlined above may result in additional corrective action up to and including termination of employment.

The Hospital would like to take this opportunity to remind you of our Employee Assistance Program administered through Lincoln Financial. I am including an informational sheet to this document for your reference. As a reminder, your participation in our EAP program is kept confidential.

Supervisor's Signature (I have investigated the circumstances surrounding this notice and have verified to the best of my knowledge and belief that the action taken is within Company policy, and that the information is factual.).

Employee's Signature(My signature indicates that I have received a copy of this Corrective Action and Action Plan and that I have been given an opportunity to comment, but it does not indicate that I necessarily agree with all the above statement(s).

above statement(s).

(b) (6), (b) (7)(C)

Employee Sign

(b) (6), (b) (7)(C)

Date

(b) (6), (b) (7)(C)

Department Director/Manager/Supervisor

Date



Name: (b) (6), (b) (7)(C)

Department: (b) (6), (b)

Date: (0)(6)(0)(7)(2014

#### Statement of Corrective Action/Expected Performance/Action Plans:

The Hospital has identified areas of opportunities for improvement. This document is identifying my expectations of your performance as well as an opportunity for you to provide feedback to improve the operations of the hospital and department.

On 8/5/2014 – Night shift, a patient in room complained that did did not receive scheduled Oxycontin 30 mg tab q 8 hrs on 8/6/14 – 06:00 am dose, as a result patient was in severe pain and upon investigation there was no documentatrion in HMS about any reason for withholding the scheduled dose or putting it on hold for other medical reasons like low blood pressure.

This made your hand off communication at change of shift reporting incomplete. You are always required to give medications in a timely manner and proper documentations if medications are missed or withheld.

You failed to comply on Vibra Hospital's Medication Administration Policy and Hand off Communication policy of Vibra Hospital.

#### **Description of Action Taken:**

(b) (6). (b) (7)(C) is receiving a Verbal Warning for failing to comply with the Vibra Hospital's Policies and Procedures. Immediate and sustained improvement on Hand off Communication and Medication Administration. Immediate and sustained improvement on following Vibra Hospital's Policies and Procedures. If any additional occurrences or failing to meet expectations as outlined above may result in additional corrective action up to and including termination of employment.

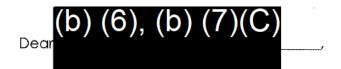
The Hospital would like to take this opportunity to remind you of our Employee Assistance Program administered through Lincoln Financial. I am including an informational sheet to this document for your reference. As a reminder, your participation in our EAP program is kept confidential.

Supervisor's Signature (I have investigated the circumstances surrounding this notice and have verified to the best of my knowledge and belief that the action taken is within Company policy, and that the information is factual.).

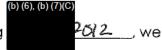
Employee's Signature (My signature indicates that I have received a copy of this Corrective Action and Action Plan and that I have been constant to comment, but it does not indicate that I necessarily agree with all the



### **First Notice**



From review of your timecard for the payroll period ending noted the following non-observance with policy:



- missed punches without an acceptable explanation (e.g. offsite meeting).
- missed meals.
- ✓ ·15 hours of unapproved overtime.
- Other:

Timekeeping policies can be found on pages 35 to 37 of the Kindred Employee Handbook.

A copy of this letter has been included in your personnel file. Three of such letters within 6-month timeframe will lead to disciplinary action.



## Performance Improvement Form

Employee name (b) (6), (b) (7)(C)		Today's date; [0](6)	oday's date; <sup>ores</sup> -11						
Department/facility (016)		Date of hire:	rate of hire:						
Position ( <sup>b) (6)</sup>	- A. (A. (A. (A. (A. (A. (A. (A. (A. (A.	(b) (6), (	b) (7)(C)						
REASON FOR COUNSELING/CORI	RECTIVE ACTION:								
On May 24,2011, (b) (6), (b) (7)(C) You signed the narcotic out from the narcotic sheet but you did not chart the medication in protouch. You have therefore violated Kindred Hospitals Policies and Procedures.									
HAS THIS CONCERN BEEN PREVI SESSIONS/CORRECTIVE ACTION:		PLOYEE? LIST ANY F	PREVIOUS COUNSELING						
EXPECTED LEVEL OF PERFORMA	NCE:								
Accurate, correct and timely administration and documentation of IV medications and narcotics. Immediate and sustained improvement. You are expected to correctly and accurately perform your assigned duties during your scheduled shift. In addition, failure to follow and comply with any of the following may result in disciplinary action up to and including termination of your employment.  -All Kindred Hospital Sacramento Policies and ProceduresAll Kindred Healthcare Policies and Procedures -The Kindred Healthcare Code of Conduct -The Kindred Healthcare Employee Handbook -The Kindred Healthcare Medication Administration Policies and Procedures.									
	☐ Verbal counseling		Extension of orientation period						
COUNSELING/ CORRECTIVE	☑ Written warning		Demotion						
ACTION (Please mark with "X")	☐ Final written warning		Suspension						
	☐ Discharge		Other						

CORRECTIVE AC	TION PLAN:	And the second s		44.774.000	11.1 18.1 hors	
Immediate and Sustained ImprovementYou are expected to accurately and completely perform your task.All medication that are given should be charted in protouch inside the patients room.						
TIME FRAME FOR	IMPROVEMENT:					
immediate						
FOULOW UP DEV	IEW DATE	A				
FOLLOW-UP REV	EW DATE:	As needed				
is not made during	this time frame, or if p	ken to improve and mainta erformance deteriorates du r after this time period.	in performance to th uring or after this time	e required level. If demonst e, further action, up to and in	rated material improvement ncluding discharge, may be	
EMPLOYEE COM	MENTS: (Attach a ser	parate sheet if necessary)		- HAWaren		
Has employee bee	n reminded of the Ope	n Door Policy Yes	□ No			
	·					
Sign	atures					
	(b) (6), (b) (7)(C					
		(b) (6), (b) (	7)(O) / / /			
		Date		Department Head	Date	
l la su sa	h	at their farms are to fill a con-	. 4 16 4	71		
inform	ation provided above.		ature indicates ackno		ead and fully understand the counseled and/or warned and	
	•			(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	
					The same of the sa	
1 A Jitor a a	on (if ampleyee refuser	to circu). Data			Date	

PLACE FORM IN EMPLOYEE'S PERSONNEL FILE



Performance Improvement Form

Employee name (b) (6), (b) (7)(C)		Today's date	11
Department/facilityNursing		Date of hire:	
Position <sup>(9)(6)</sup>		Supervisor (b) (6),	(b) (7)(C)
REASON FOR COUNSELING/CORRECT	IVE ACTION:		
	missed and therefore not do		smopressin 1mcg IV daily and chem 7 in of conduct states thjat the staff should be
	, <b></b> ,		
HAS THIS CONCERN BEEN PREVIOUS	Y DISCUSSED WITH THE EMP	PLOYEE? LIST ANY I	PREVIOUS COUNSELING
SESSIONS/CORRECTIVE ACTIONS:			
has had previous errors on file.			
EXPECTED LEVEL OF PERFORMANCE:			
. No futher call outs.			
, 110 Edition Cash Cath			
		:	
			. 1
	Verbal counseling		Extension of orlentation period
COUNSELING/ CORRECTIVE ACTION	Written warning		Demotion
(Please mark with "X")	Final written warning		Suspension
Comment for the company of the compa	Discharge		Other

CORRECTIVE ACTION PLAN:
written warning and re-education of nursing responsibilities will be done.
TIME FRAME FOR IMPROVEMENT:
immediate
FOLLOW-UP REVIEW DATE: As needed
It is essential that immediate steps are taken to improve and maintain performance to the required level. If demonstrated material improvement is not made during this time frame, or if performance deteriorates during or after this time, further action, up to and including discharge, may be taken before the end of this time period or after this time period.
9 was told by (b) (6), (b) (7)(c) nedicine already given.  9 don't accept Italian g had previous error abdition nedicine error, gwas not told personally that g missed anything or any error made by me, when addressing the problem abdut nedicalism to a group of people as a mean of aducation. 9 wouldn't take that as a verbal counselling in my par
Has employee been reminded of the Open Door Policy Yes No
Signatures (b) (6), (b) (7)(C)  Date  De  Date
I have been provided a copy of this form and a full opportunity to discuss it with my supervisor. I have read and fully understand the information provided above. I understand that my signature indicates acknowledgment of having been counseled and/or warned and does not necessarily indicate agreement with my supervisor's statement.
(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

PLACE FORM IN EMPLOYEE'S PERSONNEL FILE

Witness (if employee refuses to sign) Date

Employee

Date



(Press TAB or your mouse to maneuver between fields or lines. Do not press "Enter")

Performance Improvement Form

Employee name: (b) (6), (b) (7)(0		Today's date (b) (6), (b) (7)(C) 2010								
Department/facility NURSIING Date of hire:										
Position (b) (6), (b) (7)(C)		Supervisor: (b) (6),	(b) (7)(C)							
Jethan Landon Company	N4-11-4-11-4-11-4-11-4-11-4-11-4-11-4-1									
REASON FOR COUNSELING/CORE	RECTIVE ACTION:									
his/her scheduled shift will be co than the beginning of the shifts. I the 24 hour nature of providing p	onsidered tardy. Tardiness is moning from the state of th	tored by the time c 000 and you clock i ou begin your shift	eady to work at the time appointed for lock and is considered any clock-in later in at 0701/1901, you will be tardy. Due to on time consistently. You violated the P table with your time to provide care and							
	OUSLY DISCUSSED WITH THE EMP	PLOYEE? LIST ANY F	PREVIOUS COUNSELING							
SESSIONS/CORRECTIVE ACTIONS	S:									
No										
EXPECTED LEVEL OF PERFORMA	NCF.									
	A secretary of the secr									
Immediate and sustained improv	ement in reporting to work on tim	ne.								
	☑ Verbal counseling		Extension of orientation period							
COUNSELING/ CORRECTIVE	☐ Written warning		Demotion							
ACTION (Please mark with "X")	☐ Final written warning		Suspension							
	☐ Discharge		Other							

ORRECTIVE ACTION PLAN:	**************************************	
mmediate and sustained improvement		
IME FRAME FOR IMPROVEMENT:		
mmediate		
OLLOW-UP REVIEW DATE: APRIL.2011		
is essential that immediate steps are taken to improve and maintain a not made during this time frame, or if performance deteriorates duri aken before the end of this time period or after this time period.		
MPLOYEE COMMENTS: (Attach a separate sheet if necessary)		
las employee been reminded of the Open Door Policy Yes	□ No	
Signatures (b) (6), (b) (7)(C)	/	
(b) (6), (	(7)(C) [7]	
Date	Department	t Head Date
I have been provided a copy of this form and a full opport information provided above. I understand that my signate does not necessarily indicate agreement with my supervi-	ure indicates acknowledgment of hav	r. I have read and fully understand the ving been counseled and/or warned and
	(b) (6), (b	(0) (7)(C)
Witness (if employee refuses to sign) Date	Employee	Date



# **Employee Corrective Action**

Name: Date: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) 2014

# Statement of Corrective Action/Expected Performance/Action Plans:

The Hospital has identified areas of opportunities for improvement. This document is identifying my expectations of your performance as well as an opportunity for you to provide feedback to improve the operations of the hospital and department.

On on one of the one of the one of the order of the order

10/18/13 12/7/13 3/19/14 & 3/21/14 3/25/14 = 3/26/14 5/20/14 5/25/14

Description of Action Taken:

Vibra Hospital Sacramento you are expected to be punctual and regular in attendance. Any tardiness or absence causes problem for your fellow employees and your supervisor. When you are absent, your assigned work must be performed by others which may impact the delivery of patient care. If any additional occurrences or failing to meet expectations as outlined above may result in additional corrective action up to and including termination of employment.

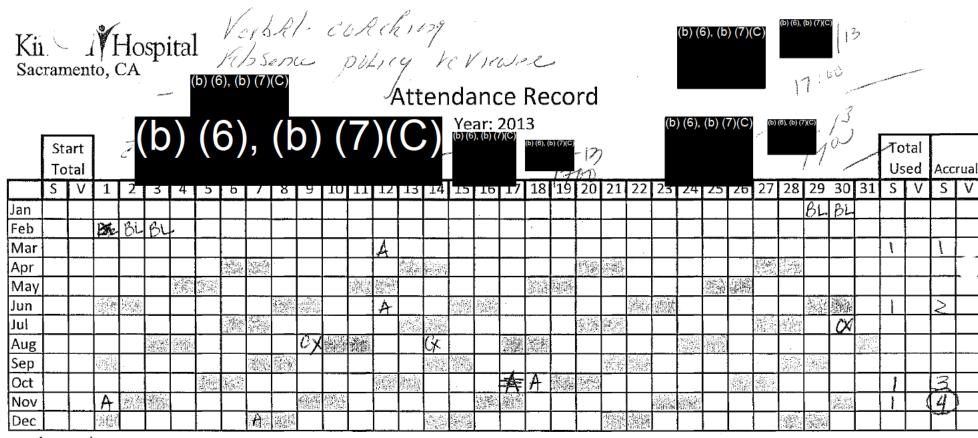
The Hospital would like to take this opportunity to remind you of our Employee Assistance Program administered through Lincoln Financial. I am including an informational sheet to this document for your reference. As a reminder, your participation in our EAP program is kept confidential.

(b) (6), (b) (7)(C)	
	(b) (6), (b) (7)(C)
	_
Employee Signature	Date

Employee's Signature (My signature indicates that I have received a copy of this Corrective Action and Action Plan and that I have been given an opportunity to comment, but it does not indicate that I necessarily agree with all the above statement(s).

(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)
Department Director/Manager/Supervisor	Date

Supervisor's Signature (I have investigated the circumstances surrounding this notice and have verified to the best of my knowledge and belief that the action taken is within Company policy, and that the information is factual.).



Legend:

CX - Mandatory Cancel

CS – Cancelled Self/Voluntary/Request

A - Absence

WS - Weekend Shift Absence = 1 pt.; Make up next weekend.

HS - Holiday Shift Absence = 1 pt.; Make up next Holiday.

V - Vacation

BL -- Bereavement Leave

JD - Jury Duty

CA - Court Appearances

T - Tardy/Late = clocking in after scheduled start time; 3 T's = 1 pt.

IC - Improper Call-in; 3 IC's = 1 pt.

JA – Job Abandonment = Min. of 6 pts. and a Max of 8 pts.

NS - No Call/No Show = Min. of 6 pts. and a Max of 8 pts.

\*Reference: Kindred Employee Handbook November 2010

\*\*\*4 pts. In 12 months rolling period = Coaching Warning.

\*\*\*5 pts. In 12 months rolling period = Verbal Written Warning.

\*\*\*6 pts. In 12 months rolling period = Written Warning.

\*\*\*7 pts. In 12 months rolling period = Final Written Warning.

\*\*\*8 pts. In 12 months rolling period = Separation of Employment.

Holidays:

January 1 - New Year's Day

July 4 –Independence Day

May - Memorial Day

September – Labor Day

November - Thanksgiving Day

December 25 – Christmas Day

Name: (b) (6), (b) (7)

Unit:

Position:





Name:

(b) (6), (b) (7)(C)

Department: Nursing

Date:

(b) (6), (b) (7)(C) 2015

# Statement of Corrective Action/Expected Performance/Action Plans:

The Hospital has identified areas of opportunities for improvement. This document is identifying my expectations of your performance as well as an opportunity for you to provide feedback to improve the operations of the hospital and department.

On (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) that (c) (6), (c) (6), (d) (6), (d) (6), (e) (7)(C) (b) (6), (b) (7)(C) "I am no gonna put up with that shit again with you just like the other night". Upon interview with the patient and review of assignment sheet and video from the time period, it was determined that (b) (6). (b) (7)(C) had stated this to the patient. Following the incident, the patient was fearful of property of the patient was fearful of property of the patient was fearful of property of the patient was fearful of the patien

# Description of Action Taken:

This corrective action is a Final Written Warning meaning that improved performance specifically within this area is required immediately or further instances will result in disciplinary action up to and including termination.

The Hospital would like to take this opportunity to remind you of our Employee Assistance Program administered through Lincoln Financial, I am including an informational sheet to this document for your reference. As a reminder, your participation in our EAP program is kept confidential.

Supervisor's Signature (I have investigated the circumstances surrounding this notice and have verified to the best of my knowledge and belief that the action taken is within Company policy, and that the information is factual.).

Employee's Signature(My signature indicates that I have received a copy of this Corrective Action and Action Plan and that I have been given an opportunity to comment, but it does not indicate that I necessarily agree with all the above statement(s).

Employee Signature

Department Director/Manager/Supervisor

Date

(b) (6), (b) (7)(C)

refused to sign



# Performance Improvement Plan

Employee name: (b) (6), (b) (7)(C)	Today's Date: <sup>நரு. நருற</sup> 2014
Department/Facility: Dietary – Sacramento	Date of Hire:
Position: (b) (6), (b) (7)(C)	Supervisor: (b) (6), (b) (7)(C)

# REASON FOR PERFORMANCE IMPROVEMENT PLAN/COUNSELING/CORRECTIVE ACTION:

Longstanding problems within dietary department have been identified and are now problematic:

- Lack of involvement of Dietitians in oversight of food preparation and ordering
- Lack of adherence to recommended patient dietary guidelines
- Food being ordered did not address special dietary needs of patients due to lack of input from dietitians
- Deficient staff knowledge concerning dietary requirements, meal portions and preparation
- Patient special dietary needs not addressed or monitored
- QAPI and Infection Control Committee not attended by Dietitian
- Consistent input to IDT not provided by Dietitians
- Title 22 elements not completely addressed demonstrated by maintenance of dietary orders for 6 months (DIGITATION)
- Patient Dietary preferences not fully addressed.
- Menu software not used
- Communication between kitchen, dietitians, and patient care area poor
- Stocking of patient care nourishment areas does not meet patient needs

### Other areas requiring improvement:

- Dietitians must be scheduled to meet the regulatory requirements of assessing and reassessing patients
- Assessment of kitchen, dietitian, and clinical staff knowledge concerning dietary requirements must be performed
- Ongoing training calendar to be developed that addresses knowledge deficits
- · Dietitians and Kitchen staff must meet regularly to ensure smooth working environment
- Training must be provided by Dietitian to kitchen and clinical staff
- Accurate schedule for Dietitians to be submitted with scheduled work times indicated
- Any changes to schedule to be submitted in advance to Director of Food Services and CCO

#### Attitude:

- Support of Vibra and hospital Administration must be demonstrated at all times.
- Negativity towards Director of Food Services has led to dissension among Dietitians and Kitchen staff
- Work well with kitchen staff to include Director of Food Services
- Do not point out problems without solutions

HAS THIS CONCERN BEEN PREVIOUSLY DISCUSSED WITH THE EMPLOYEE? LIST ANY PREVIOUS CONSELING SESSIONS/CORRECTIVE ACTIONS:



Annual evaluation addressed shortcomings of training schedule

#### EXPECTED LEVEL OF PERFORMANCE:

#### Menus

- Ensure that Kitchen is supplied with proper items to meet dietary guidelines of all patients.
   Initiation date: May 19, 2014
  - o Review and approve list of food from menu to be produced by kitchen
  - o Signature by Dietitian indicating review completed and all foods present required
  - Submit to CCO prior to ordering
  - 1 week supply for all food on the menu need to be on hand at all times
  - Random audit from menu to be performed weekly by Dietitian
    - Tracking of audit results to be presented to QAPI

May 19, 2014

# Training for dietary staff

- Menu2U
  - o Fully integrate and use Menu2U

June 1, 2014

Assess learning needs of kitchen and clinical staff

May 25, 2014

- Prepare written analysis of learning needs
- Develop training plan for kitchen and clinical staff that meets identified needs June 1, 2014
- Implement training schedule and ensure attendance to training

June 1, 2014

Immediate

- Minimum training is to be held monthly
- Ongoing assessment to be performed
- Include in plan at a minimum:
  - Dietary guidelines for special diets such as dysphagia
  - Recipe adherence
  - Substitution allowances
  - Religious preferences

# Dietitian Responsibilities

•	Attend QAPI monthly	May 2014
•	Attend Infection Control Meetings	May 2014
•	Report Dietary Indicators	May 2014
•	Attend and report pertinent info daily Flash & weekly IDT	Immediate
•	Know and adhere to Title 22 requirements for dietitians	Immediate
•	Coordinate, develop, and communicate accurate schedule that indicates wo	rk times with

COUNSELING/CORRECTIVE ACTION (please mark with X)

Director of Food Services and CCO



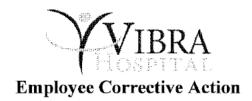
Verbal counseling	Extension of Orientation period
Written Warning	Demotion
Final Written Warning	Suspension
Discharge	XOther
CORRECTIVE ACTION PLAN:	
Expected improvement per plan.	
7	
TIME FRAME FOR IMPROVEMENT:	
	h element. Thirty days turn around for the department. Re-
evaluation of plan in thirty days.	
FOLLOW-UP REVIEW DATE:	
	en to improve and sustain performance to the required level. If
	t made during this time frame, or if performance deteriorates
during or after this time, further action, up EMPLOYEE COMMENTS: (attach a separat	
	•
HAS EMPLOYEE BEEN REMINDED OF OPEN	I DOOR POLICY? YES NO
(b) (6), (b) (7)(C)	
	2014
	7.1

Supervisor Date Department Head Date



I have been provided a copy of this form and full opportunity to discuss it with my supervisor. I have read and fully understand the information provided above. I understand that my signature indicates acknowledgement of having been counseled and/or warned and does not necessarily indicate agreement with my supervisor's statement.

with my supervisor's s	statement.	(b) (6), (b) (7)	(b) (6), (b) (7)(C)
Witness	Date	<del>-</del> .	Date
(If employee refuses t	o sign)		



# Statement of Corrective Action/Expected Performance/Action Plans:

The Hospital has identified areas of opportunities for improvement. This document is identifying my expectations of your performance as well as an opportunity for you to provide feedback to improve the operations of the hospital and department.

#### Unscheduled Absences

04/17/2013 07/25/2013 11/22/213 01/8/2014 03/6/2014

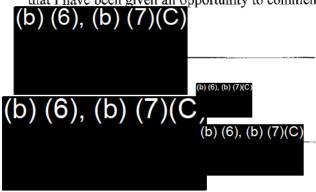
# Description of Action Taken:

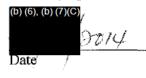
(b) (6), (b) (7)(C) is receiving a Coaching Warning .. If any additional occurrences or failing to meet expectations as outlined above may result in additional corrective action including termination of employment.

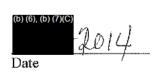
The Hospital would like to take this opportunity to remind you of our Employee Assistance Program administered through Lincoln Financial. I am including an informational sheet to this document for your reference. As a reminder, your participation in our EAP program is kept confidential.

Supervisor's Signature (I have investigated the circumstances surrounding this notice and have verified to the best of my knowledge and belief that the action taken is within Company policy, and that the information is factual.).

Employee's Signature (My signature indicates that I have received a copy of this Corrective Action and Action Plan and that I have been given an opportunity to comment, but it does not indicate that I necessarily agree with all the above









Name: (b) (6), (b) (7)(C)

Department: (b) (6), (b) (7)(C)

Date: (0) (6) (0) (7) (2014

# Statement of Corrective Action/Expected Performance/Action Plans:

The Hospital has identified areas of opportunities for improvement. This document is identifying my expectations of your performance as well as an opportunity for you to provide feedback to improve the operations of the hospital and department.

On [13] you received a Verbal Warning regarding your attendance. Since then you have called in unscheduled for your shift on 04/02/2014. Since only April 6, 2013 of your prior unscheduled absences have rolled off, you are now being placed on a Written Warning for your attendance. Your unscheduled absences are listed below:

July 24<sup>th</sup>, 2013 September 21<sup>st</sup>, 2013 November 8<sup>th</sup>, 2013 December 6<sup>th</sup>, 2013 January 6<sup>th</sup> &10<sup>th</sup>, 2014 January 21<sup>st</sup> to 31<sup>st</sup>, 2014 April 2, 3, 4, 5, 2014

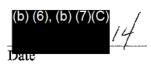
#### **Description of Action Taken:**

(b) (6), (b) (7)(C) is receiving a Written Warning for failing to comply with the Attendance Policy. As an employee of Vibra Hospital Sacramento you are expected to be punctual and regular in attendance. Any tardiness or absence causes problem for your fellow employees and your supervisor. When you are absent, your assigned work must be performed by others which may impact the delivery of patient care. If any additional occurrences or failing to meet expectations as outlined above may result in additional corrective action up to and including termination of employment.

The Hospital would like to take this opportunity to remind you of our Employee Assistance Program administered through Lincoln Financial. I am including an informational sheet to this document for your reference. As a reminder, your participation in our EAP program is kept confidential.

Supervisor's Signature (I have investigated the circumstances surrounding this notice and have verified to the best of my knowledge and belief that the action taken is within Company policy, and that the information is factual.).

Employee's Signature (My signature indicates that I have received a copy of this Corrective Action and Action Plan and that I ha (b) (c), (b) (7)(c) an opportunity to comment, but it does not indicate that I necessarily agree with all the above







# Attendance Record

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Legend:

CX - Mandatory Cancel

CS - Cancelled Self/Voluntary/Request

A – Absence

WS - Weekend Shift Absence = 1 pt.; Make up next weekend.

HS - Holiday Shift Absence = 1 pt.; Make up next Holiday.

V - Vacátion

Bl - Bereavement Leave

JD - Jury Duty

CA - Court Appearances

T-Tardy/Late = clocking in after scheduled start time; 3 T's = 1 pt.

IC - Improper Call-in; 3 IC's = 1 pt.

JA - Job Abandonment = Min. of 6 pts. and a Max of 8 pts.

NS - No Call/No Show = Min. of 6 pts. and a Max of 8 pts.

\*Reference: Kindred Employee Handbook November 2010

\*\*\*4 pts. In 12 months rolling period = Coaching Warning.

\*\*\*5 pts. In 12 months rolling period = Verbal Written Warning.

\*\*\*6 pts. In 12 months rolling period = Written Warning.

\*\*\*7 pts. In 12 months rolling period = Final Written Warning.

\*\*\*8 pts. In 12 months rolling period = Separation of Employment.

# Holidays:

January 1 - New Year's Day

July 4 -Independence Day

May - Memorial Day

September - Labor Day

November - Thanksgiving Day

December 25 - Christmas Day

(b) (6), (b) MS

Name:

Unit:

Position: (b) (6), (b) (7)(0



# Performance Management Record of Conference

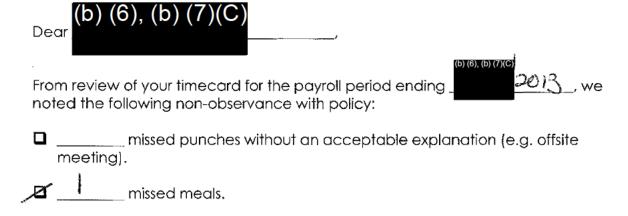
00.070 EVIO	nd.			
// Verbal (To document conversations only; no employee signature is required)	1st Written	2 <sup>nd</sup> Written		☐ Termination
Name of	f Employee: _(b)	(6), (b) (7)(C)		Today's Date: 2015
	Position: _	6), (b) (7)(C)		Date of Hire: _(b) (6), (b) (7)(C)
I Name/Title of	Department: (b) Supervisor: (b)	(6), (b) (7)(C) (6), (b) (7)(C		
was working another job	dicate if there has been (b) (7)(C) was school was school was school was school was been while being paid ally Standards. T	eduled for OR on-caunable to come in. for on-call for the V his occurrence is co	When investigated ibra OR. This is a d	it was found out that [6) (6) (6) (7)(5)
disciplinary action up to  As outlined in our policy	for call-in when s termination.  The Call/No show may be conside	cheduled for OR on  v: Failure to call and  red a voluntary res	-call. Failure to be a d /or failure to show	vailable will result in up for work for one
Discussed with	(b) (6), (b) (7)(C)	being proice	l. For on-cal	ll the expectation
EMPLOYEE COMME	NTS:			
corrective action, up to and	including the termin	nation of my employm	ent. I acknowledge red	th above may result in further ceipt of a copy of this record.
o) (6), (b) (7)	(C) written a	nd above)		Date © (D) (T) (C) (D) (D) (D) (D) (D) (D) (D) (D) (D) (D
o) (6), (b) (7) (b) (6), (b)	(7)(C)			Date (S) (o) (o) (o) (o) (o) (o) (o) (o) (o) (o

May 2015 Surgery On Call Schedule

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	
					(b) (6), (b) (7)(C)	1 (b) (6), (b) (7)(C)	2
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	
o) (6), (b) (7)(C)	3 (b) (6), (b) (7)(C)	4 (b) (6), (b) (7)(C)	5 (b) (6), (b) (7)(C)	6) (b) (6), (b) (7)(C)	7 (b) (6). (b) (7)(C)	8(b) (6), (b) (7)(C)	9
Sunday	Monday -	Tuesday	Wednesday	Thursday	Finday	Saturday	16
b) (6), (b) (7)(C)	10 <sub>(b) (8), (b) (7)(C)</sub>	11. (b) (6), (b) (7)(C)	12 (b) (6), (b) (7)(C)	13 (b) (6), (b) (7)(C)	14 <sub>(b) (6), (b) (7)(C)</sub>	15. (b) (6), (b) (7)(C)	10
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	hbzyż Igosus
b) (6), (b) (7)(C)	17 <sub>(b) (6), (b) (7)(C)</sub>	18. (b) (6), (b) (7)(C)	19 (b) (6), (b) (7)(G	20 (b) (6). (b) (7)(c)	<sup>2</sup> 7 (b) (6). (b) (7)(c)	22 <sub>(b) (6), (b) (7)(C)</sub>	23
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	
) (6), (b) ( <i>/</i> )(С)	(b) (6). (b) (7)(C)	25 (b) (6), (b) (7)(C)	26. (b) (6), (b) (7)(C)	27 <sub>(b) (6), (b) (7)(C)</sub>	28 (b) (6), (b) (7)(C)	29 (b) (6), (b) (7)(C)	30
Saturday (2012)	(b) (6),	(b) (7)(C					

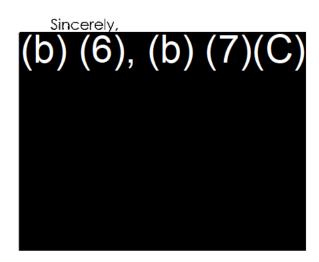


# First Notice



Timekeeping policies can be found on pages 35 to 37 of the Kindred Employee Handbook.

A copy of this letter has been included in your personnel file. Three of such letters within 6-month timeframe will lead to disciplinary action.



■ Other: \_\_\_\_\_

■ \_\_\_\_\_ hours of unapproved overtime.



Performance Improvement Form
Today's date (b) (6), (b) (7)(C),2010

(Press TAB or your mouse to maneuver between	fields or lines. Do not press "Enter")	renomiance improvement romi			
Employee name: (b) (6), (b) (7)(0	C)	Today's date (b) (6), (b) (7)(C),2010			
Department/facility NURSING		Date of hire:			
Position (b) (6), (b) (7)(C)		Supervisor: (b) (6), (b) (7)(C)			
	· · · · · · · · · · · · · · · · · · ·				
REASON FOR COUNSELING/CORE	RECTIVE ACTION:				
their attendance and punctuality unanticipated circumstances. Ho absences preceeding or following	and recognizes that their will be t wever a poor attendance such as e	imes that employed excessive unexcuse v, will result in disc	all employees to assume responsibility for es maybe absent due to unavoidable or d absences or late arrivals or patterned iplinary action, up to and including		
HAS THIS CONCERN BEEN PREVI	OUSLY DISCUSSED WITH THE EMP	LOYEE? LIST ANY I	PREVIOUS COUNSELING		
SESSIONS/CORRECTIVE ACTIONS	S:				
No					
EXPECTED LEVEL OF PERFORMA	NCE:				
Immediate and sustained improv	rement in reporting to work and no	n absences			
Immediate and sustained improvement in reporting to work and no absences.					
			Extension of orientation period		
COUNSELING/ CORRECTIVE ACTION	☐ Written warning		Demotion		
(Please mark with "X")	☐ Final written warning		Suspension		
And the state of t	Discharge		Other		



Name: (b) (6), (b) (7)(C)
Department: NSG-MS

Date: (0) (5), (0) (7)(6) -2014

# Statement of Corrective Action/Expected Performance/Action Plans:

The Hospital has identified areas of opportunities for improvement. This document is identifying Vibra Hospital's expectations of your performance as well as an opportunity for you to provide feedback to improve the operations of the hospital and department.

On [16] (2014] (b) (6), (b) (7)(C) was due to be given to patient [16] (6), (b) (7)(C) Your RN documented @ 1604 for [16] (administration but the dose was not given. The IV [16] (b) (6), (b) (7)(C) was found by night shift full and the piggyback line clamped. As (b) (6), (b) (7)(C) you need to check after an hour if the IV medication was infused via IV pump. By doing the above mentioned, you violated the Medication administration Policy and Procedure.

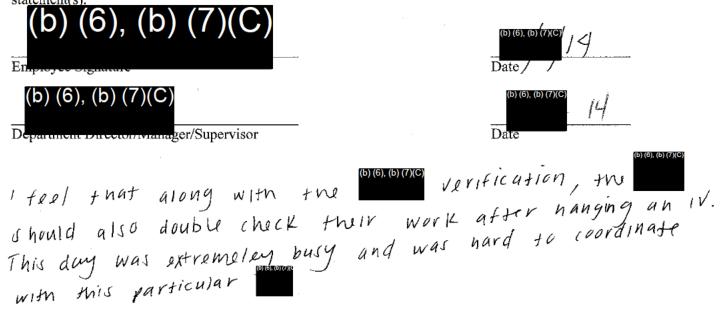
#### Description of Action Taken:

(b) (6). (b) (7)(C) is receiving a Verbal Coaching for failing to comply with the Vibra Hospital's Policies and Procedures. Immediate and sustained improvement on Medication Administration Policy and Procedure. Immediate and sustained improvement on following Vibra Hospital's Policy and Procedure. If any additional occurrences or failing to meet expectations as outlined above may result in additional corrective action up to and including termination of employment.

The Hospital would like to take this opportunity to remind you of our Employee Assistance Program administered through Lincoln Financial. I am including an informational sheet to this document for your reference. As a reminder, your participation in our EAP program is kept confidential.

Supervisor's Signature (I have investigated the circumstances surrounding this notice and have verified to the best of my knowledge and belief that the action taken is within Company policy, and that the information is factual.).

Employee's Signature(My signature indicates that I have received a copy of this Corrective Action and Action Plan and that I have been given an opportunity to comment, but it does not indicate that I necessarily agree with all the above statement(s)





# First Notice

Dear (t	b) (6), (b) (7)(C),
	eview of your timecard for the payroll period ending [15] /15 we noted the ng non-compliance with policy:
	missed punches without an acceptable explanation (e.g. offsite eting).
<b></b>	missed meals.
	cidents of incremental overtime. 1 time punched out late and 1 time took inute lunch
Oth	ner:
	y of this letter has been included in your personnel file. Three of such letters 3-month timeframe will lead to disciplinary action.
Sincere	ely,
	(b) (6), (b) (7)(C)



# UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD

REGION 20 901 Market Street, Suite 400 San Francisco, CA 94103-1738 Agency Website: www.nlrb.gov Telephone: (415)356-5130 Fax: (415)356-5156

November 27, 2015

Bruce D. Bagley, Esquire McNees, Wallace & Nurick LLC P.O. Box 1166 100 Pine Street Harrisburg, PA 17108

Re: Vibra Hospital of Sacramento Case 20-CA-159259

Dear Mr. Bagley:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

 $/_{\rm S}/$ 

Jill H. Coffman Acting Regional Director

cc: Chase Caldwell, Employer Representative Vibra Hospital of Sacramento 330 Montrose Dr Folsom, CA 95630-2720

> Luisa Padilla SEIU - UHW West 560 Thomas L. Berkley Way Oakland, CA 94612-1602

XOCHITL A. LOPEZ, ATTORNEY AT LAW WEINBERG, ROGER & ROSENFELD 1001 MARINA VILLAGE PARKWAY, SUITE 200 ALAMEDA, CA 94501